The Incorporated Accountants' Journal.

THE OFFICIAL ORGAN OF

The Society of Incorporated Accountants and Auditors

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Letters for the Editors to be forwarded to them, care of the Secretary, as above. Correspondence, copies of reports and accounts, &c., will be welcomed from the profession.

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Professional Notes.

It is some time now since the Society of Incorporated Accountants and Auditors has had to take steps to protect the professional designation of the members, but it recently became necessary to institute legal proceedings against Mr. W. A. Bale in order to restrain him from describing himself as an Incorporated Accountant after he had ceased to be a member of the Society. Mr. Bale's name was removed from the list of members in 1912 by reason of his failure to pay his annual subscription, and in March, 1924, it came to the knowledge of the Society that he was still describing himself as an Incorporated Accountant. Correspondence having failed to elicit any apology or undertaking to cease using the description, an action was brought in the Chancery Division last month which will be found reported in another column. There being no defence, Mr. Justice Clauson granted an injunction in the terms asked for.

We understand that in view of the Jubilee of the Institute of Chartered Accountants in England and Wales in May, 1930, the Council of the Institute has invited Sir William Plender and Mr. H. Fitch Kemp to act as President and Vice-President respectively for the year 1929-30. Sir William Plender has already held the office of President for two years (1910 to 1912), but it is naturally desired to have a distinguished member of the profession in the Presidential chair on such an important occasion.

It is a good many years since Credit Insurance was first introduced, and its development has been slow. It would seem, however, that it is now firmly established. The latest recruit is the general manager of the Prudential Assurance Company, who has joined the board of the Trade Indemnity Company, and it is authoritatively stated that as many as eighteen companies in Great Britain, besides private underwriters, are now taking a share in the risks. The stage which has been reached is perhaps best indicated by the fact that a first class risk of as much as £400,000 can now be covered, and that international business is also under consideration.

An interesting point under the Rent Restriction Acts has just been settled by the Court of Appeal in the case of *John Lovibond & Sons, Limited*, v. *Vincent*. It had already been decided in the case of *Keeves* v. *Dean* that a statutory tenant (that is a tenant who under the provisions of the Acts could not be evicted) could not assign his tenancy during his life, but the Courts have not hitherto been called upon to say whether a statutory tenant could assign his or her tenancy by will. This was the question that came before the Court in the case under notice in which a Mrs. Vincent made her daughter (who had been living with her) her sole beneficiary, and the daughter claimed the right to remain as a statutory tenant. Lord Justice Scrutton in delivering judgment said he was of opinion that the Court was bound to hold that, on the language of the Act, the testatrix had no estate or property as a tenant which she could pass on by a provision in her will. The right conferred on the statutory tenant was purely

a personal one with which she could not part. But his Lordship added that the result would have been different if Mrs. Vincent had died intestate, which certainly seems strange.

In reply to a question in the House of Commons as to the comparative percentages of direct and indirect taxation, Mr. Churchill gave the figures as follows for the year 1914 and the last five years :—

	DIRECT.	INDIRECT.
1914	57·50	42·50
1924	63·46	36·54
1925	66·93	33·07
1926	66·02	33·98
1927	66·46	35·54
1928	64·73	35·27

It will be seen that since 1924 the relative percentages have not greatly varied.

Answering another question in the House, the Financial Secretary to the Treasury stated that the amount of companies' Capital Duty received for the eleven months to the end of February, 1929, was approximately £4,000,000, the corresponding figure for the preceding year being £2,735,000. This indicates a large increase in company registrations, or at least in the amount of nominal capital of the new companies.

Circumstances frequently arise where directors agree to forego the whole or part of their remuneration in a bad year. A resolution or undertaking to forego fees already earned is, strictly speaking, regarded as binding only if there is some consideration for the waiver, the theory being that the fees having been earned a debt has accrued, and the waiver of a debt without consideration is not effective. There is thus a danger in the event of a director dying or becoming bankrupt that a claim for the fees may be revived. A means of overcoming this difficulty is to have the waiver executed under seal as in such case a consideration is implied. The position is different in regard to future fees, as it is then merely the modification of a contract, and there is no reason why directors should not cancel one contract and enter into another.

A peculiar point came before the Court recently in *re Saunders—Public Trustee* v. *Saunders*. Under the Administration of Estates Act, 1925, the widow of a person dying intestate has a first charge on the estate of £1,000 free of duty together with interest at 5 per cent. per annum from the date of death and, subject thereto, to a life interest in one half or the whole of the residue according to whether the deceased left any issue or not.

The action was brought to determine whether the interest on the widow's £1,000 was payable out of the residue of capital or out of the income on the residue. In the latter case, the widow would obviously bear either one half or the whole of the charge. There could be no object in providing that the widow should receive interest on her £1,000 if she had to bear one half or the whole of it herself, and Mr. Justice Eve accordingly held that both the capital sum of £1,000 and the interest thereon were payable out of the corpus of residue.

Liquidators and trustees in bankruptcy should take note of the decision of Mr. Justice Romer in the case of the *Bebside Coal Company, Limited*, which relates to the question of preferential claims. Under sect. 7 of the Workmen's Compensation Act, 1925, it is provided that preferences and priorities shall not apply where the bankrupt or the company has entered into a contract for insuring against any liability under the Act. Instead of the workman becoming a preferential creditor, the rights of the employer against the insurers are transferred to and vest in the workman. In this case the insurance company had gone into liquidation, and at the date of the winding-up of the Bebside Coal Company the contract had thereby come to an end. His Lordship held that the section applied only to cases where, at the date of the winding-up, there was some liability of the insurers, the benefit of which was capable of being transferred to the workman. It could not apply, he said, to a case where, although there had been a contract before the date of the winding-up, all liability under the contract had ceased before that date. He accordingly directed that the proof of the workman in the liquidation should be admitted, and that the costs of the action should be paid by the liquidators out of the assets.

The House of Lords had before them in the case of *Hagart and Burn-Murdoch* v. *Inland Revenue Commissioners* a claim by a firm of solicitors that losses in respect of advances made by them to a company for which they acted as solicitors were admissible charges for income tax purposes. The plea was that the advancing of money to clients was part of their ordinary business and the Commissioners had found as a fact that they were "in the habit of making advances to clients when required without security." Lord Buckmaster, in giving judgment, said that in his opinion the loss of money so advanced could not be treated as an expense in ascertaining the profits of the firm for the purpose of income tax.

He thought that the claim was excluded by Clauses (*a*) or (*e*) of Rule 3 of Cases I and II, Schedule D, the provisions of which are as follows:—

No sum shall be deducted in respect of

(*a*) Any disbursements or expenses not being money wholly or exclusively laid out or expended for the purpose of the trade, profession, employment or vocation.

(*e*) Any loss not connected with or arising out of the trade, profession, employment or vocation.

The lending of money was, in the opinion of his Lordship, a separate venture from that of their profession as solicitors, and although there was no doubt that future profitable business was expected to arise from the advances that were made, it was, none the less, no part of their true profession. The appeal accordingly failed and judgment was given in favour of the Inland Revenue.

Another case on the definition of the expression "all my money" in a will was given by Mr. Justice Eve in the Chancery Division last month. The testator, in his will, gave his leasehold house to his son and then added "I also leave all my money to my wife . . . . furniture to be divided between the family after my wife's death." In addition to the house and furniture the testator left at his death certain National Savings Certificates, L.C.C. Bonds, cash on current account, and deposit and cash at the Post Office Savings Bank. Mr. Justice Eve in giving judgment, said the question was whether there was in the will any context which enlarged the meaning of the word "money" beyond the strict legal meaning of cash, and he could not find any such context. The bequest must therefore be limited to the items of cash at the bank and the savings bank, and the claim to include in the term "all my money" the whole of the personal estate apart from the chattels, could not be upheld.

We publish this month a lecture by Sir Mark Webster Jenkinson, F.C.A., on "Some Aspects of Rationalisation" in which he deals amongst other matters with the subject of allowance for obsolescence in relation to income tax. Although obsolescence is nominally allowed, it is subject to various reservations which frequently render it ineffective. For instance, no claim is entertained where the plant is not to be replaced, and where plant has been discarded as being unsuitable the new plant is not treated as a replacement. We believe, however, that one decision on this last point was somewhat qualified by the remarks of the Judge, who said that it must not be assumed that in order to be obsolete a thing must be worn out, nor that it is not obsolete so long as it can be useful to other people in the same business who are less progressive in their methods.

The report of the National Insurance Audit Department for the year 1928 has now been issued. It deals with the work of the department in relation to Approved Societies under the National Health Insurance Acts, which consist of friendly societies, trade unions and other organisations approved to administer sickness, disablement and maternity benefits. These societies and their branches number 8,338 separate financial units, with a membership in England, Scotland, Wales and Northern Ireland of over 16,000,000 insured persons. The department has a staff of 489 which includes 94 Chartered and Incorporated Accountants. There will be found set out in another column particulars of the scheme of audit.

In the year 1928 there were issued 8,313 certified accounts of approved societies and branches comprising payments amounting to £27,370,880. Of these accounts 5,080 were certified without reservation and 3,233 subject to the reservations set forth in the reports accompanying the audit certificates. The percentage of accounts certified without reservation, viz 61·1, has remained almost uniform for the last three years. From the figures given it is clear that there is a good deal of room for improvement in the accounting methods of the societies, and the report states that there is still undue reliance upon the audit staff for guidance in difficulty and for correction of defects.

The Costing of Mining Operations

The importance of a scientific analysis of mining costs has only recently been brought into the foreground of mining problems. The credit for modern developments in this direction is claimed to belong largely to the gold mines of the Witwatersrand. As the richer ore bodies in that field diminished, the problem of working costs in relation to the larger and less auriferous sections forced itself to the front. The epoch-making chemical discovery of the cyanide process of gold extraction rescued the industry from premature extinction, and improvements in mining technique, such as the introduction of percussion drills, helped to save the situation. But it was the genius for organisation exhibited by leaders of the gold-mining industry which did more than anything else to prolong the profitable life of the mines. This organising ability was stimulated by the constant flow from a common pool of ideas. The common pool of ideas was, in its turn, dependent on circumstances

peculiar to the industry. For one thing, the mines, representing such a large aggregation of capital, were crowded together in a comparatively small area. Their problems as to labour, materials and transport were identical. If a mine wished to hide its results, or withhold the benefit of its experience from its neighbour, it would probably prove impossible for it to do so. In any case, the nature of the product deprived the policy of secrecy of any incentive, as the gold had a stable price. There was no fear of over production. The mines were, therefore, in no sense competitive concerns, and frankness, with mutual helpfulness, was to a large extent the order of the day. Advances in general efficiency were bound to be accompanied by advances in accounting methods. In the early days, everything was subordinated to speedy mining and milling of ore. But to-day, when large bodies of ore with a narrow margin of payability are being mined, costing is of supreme importance. It may be said at once that the accountants of the Rand have responded well to the general stimulus, and to the demands made upon them.

The costing system is based on an efficient system of time-keeping. In this department, difficulties of no ordinary character had to be overcome, since the bulk of the labour force, whether on the surface or underground, consists of natives. Each native receives a "book" containing thirty tickets with perforated counterfoils. Each ticket bears the "boy's" number, and represents one "shift." Before the end of each shift, the white miner or other supervisor writes up and signs the ticket of each boy in his gang. The book is returned to the boy. The detached duplicate tickets, each of which has been endorsed with particulars of the job, are placed in an envelope and put into a box at the native time office. Next morning these envelopes are opened, and the tickets "distributed" or charged out to the various jobs concerned. There is no danger of any labour going uncharged. The boy sees to that, since the book containing the signed tickets is the evidence that he has worked and his voucher for payment. In the morning, then, every shift worked the preceding day is charged to its appropriate account. In any circumstances this would be a praiseworthy performance, but it will be allowed that, with a labour force consisting almost entirely of African aborigines, the mining accountant of the Rand may be pardoned if he thinks that it is "something to write home about."

The system of store-keeping is, of course, adapted to the requirements of costing. Every item of material used in the mine, from a box of explosives to a packet of candles, must be requisitioned by a duly authorised person, and charged to the particular job. Up-to-date mines have two systems of costing, working side by side. One is the direct or personal method, the other the process method. The first is the more suitable for the purposes of the mine manager, the second is more useful to the consulting mining engineer or the higher administration of the group.

The direct method has regard to the man and his output. It takes into account the labour and materials for which he is responsible, and sets against this the number of tons mined in his section. Only expenditure which he directly controls is debited to him; that is to say, apportionments of indirect expenditure are excluded. In this way the personal efficiency of "shift bosses," each controlling groups of white miners, can be compared. The shift bosses are grouped under the control of "mine captains," and the results from each mine captain's section are shown in the same way. Finally, the underground manager's cost sheet shows the aggregate results of all his controllable expenditure, and is comparable with the corresponding cost sheet at other mines in the same group. All this is recorded day by day. When the shift bosses come off shift in the evening, they can, and do, scrutinise the provisional figures of their expenditure and output for the preceding day. Graphs hanging on the wall of the office clearly depict the results of their labours month by month, and these can be compared with those of their colleagues working under the same conditions. The effect is that a healthy spirit of rivalry is aroused, and the general standard of efficiency kept at a high level. The mine manager, too, on a survey of the graphs over a period, can see which of his men is producing the best and most economical results. In this way promotion by merit, rather than by favour, is rendered possible.

The process method is designed to show the cost of the various operations under standard headings. These include developing, "stoping," timbering, shovelling and tramming, winding, pumping, miscellaneous mining costs, extraction or reduction expenses, and administration expenses. The aggregate cost is agreed with the total expenditure for the period, as shown by the financial books. Where certain expenditure of an abnormal character has been incurred, it may be carried to a suspense account, and charged out over a period, but this is a matter that should be carefully watched, as the practice is open to abuse. These process costs, compiled at the individual mines, afford invaluable data for comparative purposes to the controllers of the group. Sometimes new mining methods may be "tried out" experimentally on certain mines. The results from the different methods, both established and experimental, can then be carefully

observed through the medium of the process costs. In this way, decisions can be arrived at on a rational basis.

Apart from these two main systems of costing, the mine manager may think it desirable to ascertain the cost of working a particular "stope," or series of stopes. One stope, say, is adjacent to the shaft, thus not incurring much expenditure in the tramming of the ore, while its roof or "hanging wall" requires little attention from the timberman. A second stope is situated a long way from the shaft, and suffers from "bad hanging." Although the assays from the first stope may show pennyweights to the ton less than those of the second, it may give a good net return, while the second stope, owing to its heavier expenditure, may, on separate costing, actually prove to be non-payable.

These various systems of costing are all based on the same data, and are, therefore, collateral. In other words, once the primary records are suitably designed, different aspects of the work may be exhibited without any appreciable increase in clerical labour. The final costing figure employed by the Witwatersrand Mines is the "cost per ton milled." It has been contended, with much justification, that a better unit of cost would be the "ounce recovered." To make this clear, perhaps it should be explained that the gold is contained in a narrow vein, and that, to obtain room to carry on mining, it is necessary to break some of the non-productive enclosing ground. Some of this waste rock may be disposed of underground as packing material to support the roof, or in other ways, but a great deal must nevertheless be brought to the surface. After a preliminary crushing, all the rock brought up finds its way to a moving belt travelling to the mill. Natives are employed to remove the waste rock from this "sorting belt" as it passes them. The waste, thus discarded, goes direct to the dump, instead of being uselessly subjected to the expensive process of milling. With the "ton milled" as the unit of cost, a mine manager who is harassed by "speeding-up" pressure from above may reduce his working costs on paper by the simple expedient of sending waste rock to the mill instead of to the dump. Men have been promoted for reducing working costs in cases where, in the light of subsequent results, it was shrewdly suspected that this was the method employed. Of course, the ultimate effect is bound to be a reduction of profits. Obviously, a system which lends itself to this abuse is objectionable, and it is not easy to see why it is retained. One reason may be that the "cost per ounce recovered," in relation to the standard price of an ounce of gold, would convey something definite to the most stupid shareholder, and it is not always considered sound policy to let shareholders know too much.

Cheques as Donatio Mortis Causa

A *donatio mortis causa* was described by Mr. Justice Buckley as a singular form of gift. It may be said to be of an amphibious nature, being a gift which is neither entirely *inter vivos* nor testamentary. It is an act *inter vivos* by which the donee is to have the absolute title to the subject of the gift not at once but if the donor dies. If the donor dies the title becomes absolute as against the executor. In order to make the gift valid it must be made so as to take complete effect on the donor's death. The Court must find that the donor intended it to be absolute if he died, but he need not actually say so. If a gift is made in expectation of death, there is an implied condition that it is to be held only in the event of death. It is a question of fact; the inference may be drawn that the gift was intended to be absolute, but only in case of death.

There are, therefore, three essentials of a *donatio mortis causa*: (1) The gift must be made in contemplation of death though not necessarily in expectation of death, but only to take effect in case of death. It must not be in contemplation of suicide, as that would be against public policy; (2) There must be delivery to the donee of the subject of the gift; (3) The gift must be made in circumstances which show that it is to take effect only if the death of the donor follows.

In *Veal* v. *Veal* (1859) 27 Beav., 303) it was held that a promissory note payable to order may be the subject of a *donatio mortis causa*, and will pass thereby though unindorsed. In *Clements* v. *Cheesman* (1884) 27 Ch.D., 631) a cheque payable to the donor or order and, without having been indorsed by him, given by the donor during his last illness to his son, was held to stand on the same footing as a promissory note or bill of exchange payable to the donor or order, and to pass to the son by way of *donatio mortis causa*.

A man's cheque in favour of another person is not an equitable assignment of any part of the donor's balance at his banker's (*Hopkinson* v. *Forster* (1874), L.R., 19 Eq., 74). The cheque is only a revocable mandate, which may be stopped in the donor's lifetime and is revoked by his death. If, before the donor's death the cheque is presented and paid, there is no question of *donatio mortis causa* of the cheque, although there may be a question whether the money has been received on the terms that it shall only be retained in case of the donor's death. If the cheque is not presented in the donor's lifetime the gift is ineffectual; the cheque is a revocable order which is revoked by the donor's death.

In all cases, in order that the gift may be valid, it must be shown that the donor handed over either property, or the indicia of title to property, which belonged to him. His own cheque is not property, it is only a revocable order such that if the banker acts on it the donee will have the money to which it relates. Even without actual payment of the cheque there may be a good gift; for instance, if there is an undertaking by the banker to the donee to hold the amount of the cheque for the latter, that may be enough. Unless there is that, or something equivalent to it, there is no delivery of property, but only a delivery of that which, if acted on, will procure the delivery of property.

In re *White* (1928) L.T.N. 562) the Court had to decide whether a testator's widow was entitled to keep for her benefit as a *donatio mortis causa* the sum of £94, representing the proceeds of a cheque drawn by the testator in her favour on his bank, and cashed by her before his death. The circumstances of this gift were as follows. On the morning of the day of his death the testator, having told his wife that it was his desire that all his money in that bank should go to her, sent for the sub-manager of the branch, signed a cheque for £94 which his wife on his instructions had drawn and which she then also on his instructions handed to the sub-manager, telling her to open an account in her name at his bank. Shortly after 11 a.m. the sub-manager left the testator's house, the testator died at 12.30, and on the same day the account was opened at the bank in the widow's name, her account being credited and the testator's debited with the amount of the cheque. Mr. Justice Tomlin held that the only proper inference to draw from the above facts was that the transaction was completed in the testator's house during the lifetime of the testator, and that the widow was entitled to the £94. The question to be considered was whether the cheque was to be regarded as having been presented at the moment when the sub-manager of the bank received it. The Court took the view that the sub-manager was receiving the cheque in the exercise of his authority as a bank official, and that the matter was completed when once he had accepted the cheque.

In *Hewitt* v. *Kaye* (1868) L.R., 6 Eq., 198) a man on his death bed gave a cheque which was not presented before the donor's death. It was held that he gave a chose in action, and the delivery of the instrument conferred upon the donee all the rights to the chose in action arising out of the instrument. A cheque is nothing more than an order to obtain a certain sum of money, and it makes no difference whether the money is at a banker's or elsewhere. If a testator said, "I have got £500 in my desk; bring it to me and I will give you the money," and died before it was brought to him, that would be no gift, and the gift of a cheque is the same thing. A cheque is an order to deliver the money, and if the order is not acted upon in the lifetime of the person who gives it, it is worth nothing. It is of no value until acted upon, and the authority to act upon it is withdrawn by the donor's death. All the authorities hold that there must be a complete delivery.

THE HUMAN TOUCH IN ECONOMICS.*

No modern writer on Economics has so profound, and persistent, a human touch as Sir Josiah Stamp. The reader, after perusal of the first two pages of the first chapter of Sir Josiah's new volume, begins to wonder whether or not a second John Ruskin has arisen amongst us! True, the chapter is entitled "Æsthetics," but it is a kind of delightful writing which one does not usually associate with Economics. It reminds the present writer that he learned more about his own county cathedral after visiting it in the company of Sir Josiah Stamp than he had ever known before, and of another occasion when, inspecting an old Cistercian monastery, the official guide was only too willing to stand on one side while Sir Josiah discoursed on the history and architecture of the monastery. The real charm of our author is that he is always much more than an economist and statistician, and the width of his knowledge enables him to relate all subjects in their true economic setting.

Thus, in writing on "Inheritance," he remarks that the two richest countries have freedom of inheritance, the two next conditional freedom; that during 120 years prior to the war the position of the standard person had improved four times; that a century ago income from property was as 100 is to 60 from businesses, whereas to-day the comparison is 100 from property, 400 from businesses; that if all the the incomes in excess of £250 were pooled, and the fund thus provided divided, it would not give each family more than 5s. per week.

In the lecture on "Invention" Sir Josiah naively says:—"I do not choose a subject because I think I know a great deal about it, but rather because I have at various times put myself questions to which I do not know the answers."

Whether "amalgamations" induce a finer public spirit, as Sir Josiah suggests in his address on this subject, may perhaps be open to the criticism that rationalisation is an expedient only, and is not a solution of the problem. It is all very well to stress a saving in overhead expenses, but when the whole of the facts are available, including those of dispossessed workers, a different colour may be given to the picture. One knows already that some amalgamations in functioning have perhaps been in danger of substituting slow and inefficient methods for the quicker, more alert, more sympathetic, and

*"Some Economic Factors in Modern Life." P. S. King & Son, Ltd. 10s. 6d.

certainly not less efficient methods of the same works when under single control. That the general tendency of amalgamations is towards bureaucratic control is beyond doubt.

Sir Josiah's clear and logical mind is so free from any sort of bias that we look forward with keen interest to further contributions from his pen on this vital question, say in ten years' time, when one may fairly judge the real value of rationalisation, through amalgamations, of the national life.

The penultimate chapter in this remarkable book, comprises an enlarged and modified thesis of the Sidney Ball lecture delivered by Sir Josiah at Oxford. Even on a subject such as "Statistical Methods," we get a touch of that humour which is part and parcel of the make-up of our versatile author.

The accountant-student who takes the trouble to seek out this volume in the Incorporated Accountants' Library, or better still, who procures his own copy, will find a model costing account in the last chapter "Human Nature in Statistics," p. 273, which for completeness has only been rivalled, so far as the present writer's knowledge extends, by an ancient German text book on the subject. Needless to say the German production is devoid of the lighter touch which renders Sir Josiah's costing account so attractive. Here it is!

Model Costing for Growing Brussels Sprouts.

Direct Labour (not to include time engaged in talking to the man next door on the depravities of the season, nor time occupied in exhibiting the crop to his admiring family, but to include time engaged in lighting pipe and removing mud from boots).

1. Preparing soil.
2. Buying seeds.
3. Sowing seeds.
4. Transplanting and dibbing.
5. Watering.
6. Chasing and executing slugs.
7. Gathering harvest.
8. Delivering the goods.
9. Clearing ground.

Materials:—

10. Seeds.
11. Manure, &c.
12. Water supply.

Workshop Expenses:—

13. Upkeep and depreciation of wheelbarrow and other plant and tools.

Superintendence:—

14. Obtaining advice of friends and getting advice of wife.
    (Scaled down to 0.1% of actual.)
15. Planning lay-out.
16. Keeping cost record.

General:—

17. Interest on capital invested in equipment.
18. Interest on year's outlay until delivery of the goods.
19. Rent and rates.

N.B.—Profit on sales and income tax thereon not to be included. The total divided by the number or weight of the sprouts, according to taste, will show the cost per unit, and, when compared with the price payable to the local greengrocer for similar sprouts in a similar condition (if the grower's wife considers that imaginable) delivered for cash at the same time, the difference will represent the profit or loss, as the case may be.

Society of Incorporated Accountants and Auditors.

MEMBERSHIP.

The following additions to and promotion in the Membership of the Society have been completed since our last issue:—

ASSOCIATE TO FELLOW.

Hannibal, Thomas, Chief Accountant, Birmingham Chamber of Commerce, 95, New Street, Birmingham.

ASSOCIATES.

Blakeborough, Stanley Grant, Clerk to John Naylor, 19, Richmond Terrace, Blackburn.

Brindle, Thomas, Borough Treasurer's Department, Town Hall, Bolton.

Brown, Arthur Ronald, Clerk to Viney, Price & Goodyear, Empire House, St. Martin's-le-Grand, London, E.C.1.

Butterfield, John, Clerk to Groome & Ramsdale, 4, Norfolk Street, Manchester.

Carlisle, Gerald Frederick, Clerk to Dunn, Hornby & Co., Royal Exchange Buildings, Nairobi.

Dawe, Reginald Arthur, Clerk to E. R. Syfret & Co., Corner of Wale and Burg Streets, Cape Town, South Africa.

Dwek, Raphael, Clerk to Hewat, Bridson & Hargreaves, 6, Rue de l'Ancienne Bourse, Alexandria, Egypt.

Evans, William Benjamin, Clerk to Lomax, Clements, Gladstone & Co., Greenwich House, Newgate Street, London, E.C.1.

Foster, Albert Edward, Clerk to Barnes, Bryant, Haynes & Co., 41, St. James's Place, London, S.W.1.

Gannaway, Cecil Harry, Clerk to Gardiner, Hunter & Co., 40/41, Old Broad Street, London, E.C.2.

Grayson, George Henry, Treasurer's Department, East Riding County Council, County Hall, Beverley.

Guy, Harold, Clerk to Harry Davey, Hyland Buildings, Wood Street, Wakefield.

MacDonagh, John Victor Nevill, Clerk to Stokes Bros. & Pim, 36, College Green, Dublin.

Mair, James Gray, C.A., Assistant Accountant, Commissioners for the Port of Calcutta, Calcutta.

Mark, John Bell, Clerk to John Durham, County Accountant of Cumberland, The Courts, Carlisle.

Milford, Charles Richard, Clerk to Milford & Co., Preston New Road, Blackburn.

Neely, Robert John, Clerk to Oughton, Boyd & Co., Arthur Chambers, 6, Arthur Street, Belfast.

Penfold, Arthur John, Clerk to Deloitte, Plender, Griffiths and Co., 5, London Wall Buildings, London, E.C.2.

Peskett, George Archibald, Clerk to Arthur M. Hobbs, 64, Great Portland Street, London, W.1.

Pierce, Philip Fletcher, Clerk to Rodger Smith, 10, Richmond Terrace, Blackburn.

Pleasance, Spencer Laurence, Clerk to John Mofflitt, City Treasurer and Accountant, Guildhall, Portsmouth.

Saunders, Reginald Alan, Clerk to Dixon, Wilson, Tubbs & Co., 24, Basinghall Street, London, E.C.2.

Shaw, Frank Stephenson, Clerk to Webb & Hall, 90, Deansgate Manchester.

WRONGFUL USE OF DESIGNATION "INCORPORATED ACCOUNTANT."

INJUNCTION GRANTED.

Society of Incorporated Accountants and Auditors v. Bale.

In this action before Mr. Justice Clauson in the Chancery Division Mr. C. A. Bennett, K.C., and Mr. Wilfrid Hunt, instructed by Messrs. Norton Rose & Co., appeared for the Society. The defendant was not represented.

Mr. Bennett: This is an action by the Society of Incorporated Accountants and Auditors against W. A. Bale. I appear with my friend Mr. Wilfrid Hunt in support of a motion by the plaintiffs for "an Order restraining the defendant by injunction until Judgment or further Order from using in connection with his business of accountant the title or designation 'Incorporated Accountant' and from using in letters, accounts or notices or any circulars or other advertisements the designation of 'Incorporated Accountant' or any designation only colourably differing therefrom in such a way as to represent or lead to the belief that the defendant is a member of the plaintiff Society." The defendant has entered an appearance through a firm of solicitors, but I understand that their instructions were only to enter an appearance. In the circumstances I think it would be right that your Lordship should have the defendant called.

(The defendant's name was called inside and outside the Court but there was no response.)

Mr. Justice Clauson: There is no answer, so he does not seem to be represented.

Mr. Bennett: The facts upon which this motion is founded are these. The plaintiff society is a body which was incorporated in the year 1885 with the license of the Board of Trade to omit the word "limited," as it is not carried on for gain. As your Lordship will see from the objects set out in Mr. Garrett's affidavit, it is to provide a central organisation for accountants and auditors and to provide for the better definition and protection of the profession by a system of examinations and the issue of certificates. It has, as your Lordship perhaps knows, a very large membership, and members of the plaintiff society are to-day known as "Incorporated Accountants"; that is the term which they use after their names. The defendant, Mr. Bale, was a member of the Society, and he ceased to be a member on July 16th, 1912, by reason of his failure to pay his subscription. If your Lordship looks at page 784 of the Articles of Association, the relevant rule is Rule 27: "Any member shall *ipso facto* cease to be a member in the event of his annual subscription being in arrear for six months from the date of the same becoming payable, but shall nevertheless be liable to pay the amount of such year's subscription and any other arrears of subscription or other sums due by him to the Society, and shall be liable otherwise as a member. The Council shall have the power upon application in special cases to suspend the operation of this clause." Mr. Bale having failed to pay his subscription, ceased to be a member. In March of 1924 it came to the knowledge of the plaintiff Society that although he had ceased to be a member, he was describing himself as "Incorporated Accountant." Thereupon correspondence took place between him and the Secretary. On March 17th, 1924, the solicitors for the Society wrote to him: "The attention of our clients, the Society of Incorporated Accountants and Auditors, has been drawn to the description of yourself on your office plate and window and letter paper as an 'Incorporated Accountant,' and we are instructed by our clients to inform you that the title 'Incorporated Accountant' appertains exclusively to members of our clients' Society. By a decision of Lord Justice Warrington (then Mr. Justice Warrington) in the Chancery Division some years ago, an injunction was granted against a person describing himself as an 'Incorporated Accountant,' and the Judge then held that the designation could only be used by members of the Society of Incorporated Accountants and Auditors. We have therefore to request that you will forthwith cease using the designation 'Incorporated Accountant' and write us a letter to be inserted in such newspapers as our clients may decide, apologising for the use of the description, and give us an undertaking in writing that you will destroy all circulars and letter paper, &c., containing the description of yourself as an Incorporated Accountant, and also undertaking not in future to in any way use the term or any descriptive words or letters in any way implying that you are a member of our clients' Society. Failing your compliance with these conditions we shall have no alternative but to proceed against you as we may be advised."

Mr. Justice Clauson: I think it is quite clear on this evidence that he has used that description and that he is not a member of your Society.

Mr. Bennett: Yes, my Lord.

Mr. Justice Clauson: The matter is obviously one of importance because he is using the description in connection with dealings with the Inland Revenue.

Mr. Bennett: Yes, my Lord.

Mr. Justice Clauson: Of course, it is most important that the Inland Revenue authorities should be protected when dealing with a person in a *quasi*-professional capacity. Injunctions have been granted to your clients in precisely similar circumstances on several occasions, have they not?

Mr. Bennett: Yes, my Lord, and there is a reported case of the *Plaintiff Society* v. *Goodway* and the *London Association of Accountants* which is reported in 1907.

Mr. Justice Clauson: You need not trouble about the authorities. I think you are entitled to your injunction until judgment or further order, in the terms of the notice of motion. I think the terms are sufficient because there is a letter from him admitting using the description.

Mr. Bennett: Yes, my Lord. Supposing the defendant should be willing to make an end of it?

Mr. Justice Clauson: If he is, and before the order is drawn up, he appears and is willing to treat this as the trial of the action and consents to a perpetual injunction and to his being ordered to pay the costs, then alter the order in that form.

Mr. Bennett: If your Lordship pleases.

Mr. Justice Clauson: At the moment it is the usual injunction until trial or further order, and the costs will be plaintiffs' costs in the action.

Incorporated Accountants' Golfing Society.

The spring meeting of the Incorporated Accountants' Golfing Society will be held at the Northwood Golf Club on Thursday, April 11th, 1929, at 10 a.m. The winner of the competition will receive a prize presented by Mr. A. T. Keens, and a second prize will be given by the Society. Members are requested to intimate to the Joint Honorary Secretaries at Incorporated Accountants' Hall if they propose to take part. Incorporated Accountants and students not members of the Golfing Society may play on this occasion on the introduction of a member or of either of the Joint Honorary Secretaries, from whom further particulars of the meeting and of membership of the society can be obtained.

UNITED KINGDOM INCOME TAX.

Visitors from the Dominions and Foreign Countries.

The following explanatory statement was issued last month by the Board of Inland Revenue:—

The Board of Inland Revenue have reason to believe that there is widespread misapprehension about the circumstances in which and the extent to which visitors to the United Kingdom, who are not domiciled there, may incur liability to United Kingdom income tax. The subject is complicated, and it is not possible to deal with it fully in a general summary; but the Board hope that the following outline of the position will serve to dispel some misunderstandings.*

(1) Liability to Tax on Income arising in the United Kingdom.

All income arising from sources within the United Kingdom (with the exception of interest from certain Government securities, such as the 5 per cent. War Loan Stock, 1929-47, to which special privileges are attached) is chargeable to United Kingdom income tax.

(2) Liability to Tax on Income arising Abroad.

No part of a visitor's income from sources outside the United Kingdom is subject to United Kingdom income tax unless he is chargeable as a person residing in the United Kingdom. The circumstances in which he may become so chargeable and the extent of his liability are indicated below.

(3) What Constitutes "Residence."

(A) A visitor who maintains no place of abode in the United Kingdom and whose visits are not habitual but occasional only is not regarded as resident in the United Kingdom unless he has been in the United Kingdom for a period or periods equal in the whole to six months in the income tax year (beginning April 6th).

(B) If, however, he maintains a place of abode in the United Kingdom, available for his use, he is regarded as resident for any year in which he pays a visit, of whatever length, to the United Kingdom.

(C) Moreover, even though he does not maintain a place of abode in the United Kingdom available for his use, and does not stay for six months in any one year, he is regarded as becoming resident if he visits the United Kingdom year after year (so that his visits become in effect part of his habit of life) and the annual visits are for a substantial period or periods of time. The question of residence in any particular case can only be determined by reference to the facts of the case. But it can be said that the Board of Inland Revenue would normally regard an average annual period or periods amounting to three months as "substantial" and the visits as having become "habitual" after four years. And, where the visitor's arrangements indicated from the start that regular visits for substantial periods were to be made, he would be regarded as resident in and from the first year.

(4) Extent of Liability to Tax on Income arising Abroad.

A visitor who thus becomes chargeable as a resident is liable not on the whole of his income arising abroad but only on so much of that income as is received in or remitted to the United Kingdom.

In order to assist intending visitors in ascertaining their position the Board of Inland Revenue will be glad to express their opinion on the facts of any case being submitted to them by letter addressed to the Secretary, Board of Inland Revenue, Somerset House, London, W.C. 2. It should be added that a visitor who is charged to income tax in respect of his income arising abroad has the right of appeal to the Appeal Commissioners and, on a point of law, to the Courts, both on the question of residence and on the question of the amount of the income tax liability.

* A special arrangement with regard to income tax exists between the United Kingdom and the Irish Free State, and this memorandum, so far as it deals with the extent of liability to United Kingdom income tax, must not be taken as applicable to persons resident or income arising in the Irish Free State.

Correspondence.

ACCOUNTANTS' CHARGES ON A PERCENTAGE BASIS.

To the Editors *Incorporated Accountants' Journal.*

Sirs,—I have read with interest the leading article in your *Journal* on the subject of accountants' charges arising out of the case of *Leach* v. *Braunston (Malay) Rubber Estates, Limited*. You emphatically state therein that the Lord Chief Justice directed the jury "that reference might be had to the percentage basis, but if the payment was to be based on time occupied, the plaintiff was entitled to two guineas per hour for 400 hours' work."

I have read other reports of this case, and have come to the conclusion that the Lord Chief Justice directed the jury that reference might be had to the percentage basis and that he went on to remark that *the plaintiff said* he should be allowed to claim at the rate of 400 hours at the rate of two guineas per hour.

It seems to me that there was no direction on the latter point, and it is clear that the case for the time basis was not thought much of by the Lord Chief Justice or relied upon by the plaintiff, and that is why no evidence of the time employed by the plaintiff was submitted or asked for.

I was not, of course, present in Court to hear the summing up, and therefore put the above forward with some deference.

Yours faithfully,

STATOR.

[Respecting the question of the 400 hours, we have now seen the official report, from which it seems clear that the Judge was stating what the plaintiff claimed when he said that if the payment was to be based on time occupied the plaintiff was entitled to two guineas per hour for 400 hours' work. His final direction to the jury was that they should say what in their opinion was a sum of money which was reasonable remuneration for the plaintiff.—Eds., *I.A.J.*]

Professional Appointment.

Mr. Aubrey Kendall, A.S.A.A., Chief Assistant in the Borough Accountant's office at Guildford, has been appointed the first Borough Accountant of Godalming. There were 75 applicants for the post.

NEW TABLE A, &c.

(Under Companies Acts.)

Companies Forms (No. 1) Order, 1929, was published in the *London Gazette* of March 1st last, in the terms set out out below. It will be observed that the Order is not to take effect until the Consolidation Act comes into force:—

Whereas by sub-sect. (2) of sect. 118 of the Companies (Consolidation) Act, 1908, it is provided that the Board of Trade may alter any of the Tables and Forms in the First Schedule to that Act so that it does not increase the amount of fees payable to the Registrar under the said Schedule mentioned and may alter or add to the Forms in the Third Schedule to that Act.

Now therefore the Board of Trade in pursuance of the powers conferred upon them by the said sub-section and of all other powers enabling them in that behalf hereby order as follows:—

(1) This Order may be cited as The Companies Forms (No. 1) Order, 1929, and shall come into force on the day on which an Act to consolidate the enactments relating to companies comes into force.

(2) There shall be substituted for the Table A in the First Schedule to the Companies (Consolidation) Act, 1908, the Table A set out in the First Schedule hereto.

(3) There shall be substituted for the Forms A, B, C, D and E in the Third Schedule to the Companies (Consolidation) Act, 1908, the Forms A, B, C, D and E set out in the Second Schedule hereto.

Dated February 20th, 1929.

(Signed) P. CUNLIFFE-LISTER,
President of the Board of Trade.

First Schedule.

TABLE A.

REGULATIONS FOR MANAGEMENT OF A COMPANY LIMITED BY SHARES.

Preliminary.

1. In these regulations:—

"The Acts" means the Companies Acts, 1908 to 1928.

Unless the context otherwise requires, expressions defined in the Acts or any statutory modification thereof in force at the date at which these regulations become binding on the company, shall have the meanings so defined.

Shares.

2. Subject to the provisions, if any, in that behalf of the Memorandum of Association, and without prejudice to any special rights previously conferred on the holders of existing shares, any share may be issued with such preferred, deferred, or other special rights, or such restrictions, whether in regard to dividend, voting, return of share capital, or otherwise, as the company may from time to time by special resolution determine, and any preference share may, with the sanction of a special resolution, be issued on the terms that it is, or at the option of the company is liable to be, redeemed.

3. If at any time the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may be varied with the consent in writing of the holders of three-fourths of the issued shares of that class, or with the sanction of an extraordinary resolution passed at a separate general meeting of the holders of the shares of the class. To every such separate general meeting the provisions of these regulations relating to general meetings shall *mutatis mutandis* apply, but so that the necessary quorum shall be two persons at least holding or representing by proxy one-third of the issued shares of the class and that any holder of shares of the class present in person or by proxy may demand a poll.

4. Every person whose name is entered as a member in the register of members shall, without payment, be entitled to a certificate under the seal of the company specifying the share or shares held by him and the amount paid up thereon, provided that in respect of a share or shares held jointly by several persons the company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all.

5. If a share certificate is defaced, lost, or destroyed, it may be renewed on payment of such fee, if any, not exceeding one shilling, and on such terms, if any, as to evidence and indemnity as the directors think fit.

6. No part of the funds of the company shall directly or indirectly be employed in the purchase of, or in loans upon the security of, the company's shares, but nothing in this regulation shall prohibit transactions mentioned in the proviso to sect. 16 of the Companies Act, 1928.

Lien.

7. The company shall have a lien on every share (not being a fully paid share) for all moneys (whether presently payable or not) called or payable at a fixed time in respect of that share, and the company shall also have a lien on all shares (other than fully paid shares) standing registered in the name of a single person for all moneys presently payable by him or his estate to the company; but the directors may at any time declare any share to be wholly or in part exempt from the provisions of this regulation. The company's lien, if any, on a share shall extend to all dividends payable thereon.

8. The company may sell, in such manner as the directors think fit, any shares on which the company has a lien, but no sale shall be made unless some sum in respect of which the lien exists is presently payable, nor until the expiration of fourteen days after a notice in writing, stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share, or the person entitled thereto by reason of his death or bankruptcy.

9. For giving effect to any such sale the directors may authorise some person to transfer the shares sold to the purchaser thereof. The purchaser shall be registered as the holder of the shares comprised in any such transfer and he shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

10. The proceeds of the sale shall be received by the company and applied in payment of such part of the amount in respect of which the lien exists as is presently payable, and the residue shall (subject to a like lien for sums not presently payable as existed upon the shares prior to the sale) be paid to the person entitled to the shares at the date of the sale.

Calls on Shares.

11. The directors may from time to time make calls upon the members in respect of any moneys unpaid on their shares provided that no call shall exceed one-fourth of the nominal amount of the share, or be payable at less than one month from the last call; and each member shall (subject to receiving at least fourteen days' notice specifying the time or times of payment) pay to the company at the time or times so specified the amount called on his shares.

12. The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

13. If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest upon the sum at the rate of five pounds per centum per annum from the day appointed for the payment thereof to the time of the actual payment, but the directors shall be at liberty to waive payment of that interest wholly or in part.

14. The provisions of these regulations as to the liability of joint holders and as to payment of interest shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the amount of the share, or by way of premium, as if the same had become payable by virtue of a call duly made and notified.

15. The directors may make arrangements on the issue of shares for a difference between the holders in the amount of calls to be paid and in the times of payment.

16. The directors may, if they think fit, receive from any member willing to advance the same all or any part of the moneys uncalled and unpaid upon any shares held by him; and upon all or any of the moneys so advanced may (until the same would, but for such advance, become presently payable) pay interest at such rate (not exceeding, without the sanction of the company in general meeting, 6 per cent.) as may be agreed upon between the member paying the sum in advance and the directors.

Transfer and Transmission of Shares.

17. The instrument of transfer of any share shall be executed by or on behalf of the transferor and transferee, and the transferor shall be deemed to remain a holder of the share until the name of the transferee is entered in the register of members in respect thereof.

18. Shares shall be transferred in the following form, or in any usual or common form which the directors shall approve:

> I, *A.B.*, of , in consideration of the sum of £ paid to me by *C.D.* of (hereinafter called "the said transferee"), do hereby transfer to the said transferee the share [*or shares*] numbered in the undertaking called the Company, Limited, to hold unto the said transferee, subject to the several conditions on which I hold the same: and I, the said transferee, do hereby agree to take the said share [*or shares*] subject to the conditions aforesaid. As witness our hands the day of
>
> Witness to the signatures of, &c.

19. The directors may decline to register any transfer of shares, not being fully paid shares, to a person of whom they do not approve, and may also decline to register any transfer of shares on which the company has a lien. The directors may also suspend the registration of transfers during the fourteen days immediately preceding the ordinary general meeting in each year. The directors may decline to recognise any instrument of transfer unless—

> (*a*) A fee not exceeding two shillings and sixpence is paid to the company in respect thereof, and
>
> (*b*) The instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer.

If the directors refuse to register a transfer of any shares, they shall within two months after the date on which the transfer was lodged with the company send to the transferee notice of the refusal.

20. The legal personal representatives of a deceased sole holder of a share shall be the only persons recognised by the company as having any title to the share. In the case of a share registered in the names of two or more holders, the survivors or survivor, or the legal personal representatives of the deceased survivor, shall be the only persons recognised by the company as having any title to the share.

21. Any person becoming entitled to a share in consequence of the death or bankruptcy of a member shall, upon such evidence being produced as may from time to time be properly required by the directors, have the right, either to be registered as a member in respect of the share or, instead of being registered himself, to make such transfer of the share as the deceased or bankrupt person could have made; but the directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the share by the deceased or bankrupt person before the death or bankruptcy.

22. A person becoming entitled to a share by reason of the death or bankruptcy of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the company.

Forfeiture of Shares.

23. If a member fails to pay any call or instalment of a call on the day appointed for payment thereof, the directors may, at any time thereafter during such time as any part of such call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.

24. The notice shall name a further day (not earlier than the expiration of fourteen days from the date of the notice) on or before which the payment required by the notice is to be made, and shall state that in the event of non-payment at or before the time appointed the shares in respect of which the call was made will be liable to be forfeited.

25. If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the directors to that effect.

26. A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the directors think fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the directors think fit.

27. A person whose shares have been forfeited shall cease to be a member in respect of the forfeited shares, but shall, notwithstanding, remain liable to pay to the company all moneys which, at the date of forfeiture, were presently payable by him to the company in respect of the shares, but his liability shall cease if and when the company receive payment in full of the nominal amount of the shares.

28. A statutory declaration in writing that the declarant is a director of the company, and that a share in the company has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share. The company may receive the consideration, if any, given for the share on any sale or disposition thereof and may execute a transfer of the share in favour of the person to whom the share is sold or disposed of and he shall thereupon be registered as the holder of the share, and shall not be bound to see to the application of the purchase money, if any, nor shall his title to the share be affected by any irregularity or invalidity

in the proceedings in reference to the forfeiture, sale or disposal of the share.

29. The provisions of these regulations as to forfeiture shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the amount of the share, or by way of premium, as if the same had been payable by virtue of a call duly made and notified.

Conversion of Shares into Stock.

30. The company may by ordinary resolution convert any paid-up shares into stock, and reconvert any stock into paid-up shares of any denomination.

31. The holders of stock may transfer the same, or any part thereof, in the same manner, and subject to the same regulations, as, and subject to which, the shares from which the stock arose might previously to conversion have been transferred, or as near thereto as circumstances admit; but the directors may from time to time fix the minimum amount of stock transferable, and restrict or forbid the transfer of fractions of that minimum, but the minimum shall not exceed the nominal amount of the shares from which the stock arose.

32. The holders of stock shall, according to the amount of the stock held by them, have the same rights, privileges, and advantages as regards dividends, voting at meetings of the company, and other matters as if they held the shares from which the stock arose, but no such privilege or advantage (except participation in the dividends and profits of the company) shall be conferred by any such aliquot part of stock as would not, if existing in shares, have conferred that privilege or advantage.

33. Such of the regulations of the company as are applicable to paid-up shares shall apply to stock, and the words "share" and "shareholder" therein shall include "stock" and "stockholder."

Alteration of Capital.

34. The company may from time to time by ordinary resolution increase the share capital by such sum, to be divided into shares of such amount, as the resolution shall prescribe.

35. Subject to any direction to the contrary that may be given by the company in general meeting all new shares shall, before issue, be offered to such persons as at the date of the offer are entitled to receive notices from the company of general meetings in proportion, as nearly as the circumstances admit, to the amount of the existing shares to which they are entitled. The offer shall be made by notice specifying the number of shares offered, and limiting a time within which the offer, if not accepted, will be deemed to be declined, and after the expiration of that time, or on the receipt of an intimation from the person to whom the offer is made that he declines to accept the shares offered, the directors may dispose of those shares in such manner as they think most beneficial to the company. The directors may likewise so dispose of any new shares which (by reason of the ratio which the new shares bear to shares held by persons entitled to an offer of new shares) cannot, in the opinion of the directors, be conveniently offered under this Article.

36. The new shares shall be subject to the same provisions with reference to the payment of calls, lien, transfer, transmission, forfeiture, and otherwise as the shares in the original share capital.

37. The company may by ordinary resolution—

(*a*) Consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;

(*b*) Sub-divide its existing shares, or any of them, into shares of smaller amount than is fixed by the Memorandum of Association subject, nevertheless, to the provisions of sect. 41 (1) (*d*) of the Companies Consolidation Act, 1908.

(*c*) Cancel any shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person.

38. The company may by special resolution reduce its share capital and any capital redemption reserve fund in any manner and with, and subject to, any incident authorised, and consent required, by law.

General Meetings.

39. A general meeting shall be held once in every calendar year at such time (not being more than fifteen months after the holding of the last preceding general meeting) and place as may be prescribed by the company in general meeting, or, in default, at such time in the third month following that in which the anniversary of the company's incorporation occurs, and at such place, as the directors shall appoint. In default of a general meeting being so held, a general meeting shall be held in the month next following, and may be convened by any two members in the same manner as nearly as possible as that in which meetings are to be convened by the directors.

40. The above-mentioned general meetings shall be called ordinary general meetings; all other general meetings shall be called extraordinary general meetings.

41. The directors may, whenever they think fit, convene an extraordinary general meeting, and extraordinary general meetings shall also be convened on such requisition, or, in default, may be convened by such requisitionists, as provided by sect. 66 of the Companies (Consolidation) Act, 1908, as amended by sect. 22 of the Companies Act, 1928. If at any time there are not within the United Kingdom sufficient directors capable of acting to form a quorum, any director or any two members of the company may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the directors.

Notice of General Meetings.

42. Subject to the provisions of sect. 69 of the Companies (Consolidation) Act, 1908, as amended by sect. 25 of the Companies Act, 1928, relating to special resolutions, seven days' notice at the least (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which notice is given) specifying the place, the day, and the hour of meeting and, in case of special business, the general nature of that business shall be given in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the company in general meeting, to such persons as are, under the regulations of the company, entitled to receive such notices from the company; but with the consent of all the members entitled to receive notice of some particular meeting, that meeting may be convened by such shorter notice and in such manner as those members may think fit.

43. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any member shall not invalidate the proceedings at any meeting.

Proceedings at General Meetings.

44. All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of sanctioning a dividend, the consideration of the accounts, balance-sheets, and the ordinary report of the directors and auditors, the election of directors and other officers in the place of those retiring by rotation, and the fixing of the remuneration of the auditors.

45. No business shall be transacted at any general meeting unless a quorum of members is present at the time when

the meeting proceeds to business; save as herein otherwise provided, three members personally present shall be a quorum.

46. If within half-an-hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week, at the same time and place, and if at the adjourned meeting a quorum is not present within half-an-hour from the time appointed for the meeting the members present shall be a quorum.

47. The chairman, if any, of the board of directors shall preside as chairman at every general meeting of the company.

48. If there is no such chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting or is unwilling to act as chairman, the members present shall choose some one of their number to be chairman.

49. The chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for ten days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

50. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded by at least three members present in person or by proxy entitled to vote or by one member or two members so present and entitled, if that member or those two members together hold not less than 15 per cent. of the paid up capital of the company, and, unless a poll is so demanded, a declaration by the chairman that a resolution has, on a show of hands, been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book of the proceedings of the company, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.

51. If a poll is duly demanded it shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

52. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded, shall be entitled to a second or casting vote.

53. A poll demanded on the election of a chairman or on a question of adjournment, shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs.

Votes of Members.

54. On a show of hands every member present in person shall have one vote. On a poll every member shall have one vote for each share of which he is the holder.

55. In the case of joint holders the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders; and for this purpose seniority shall be determined by the order in which the names stand in the register of members.

56. A member of unsound mind, or in respect of whom an order has been made by any Court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee, curator bonis, or other person in the nature of a committee or curator bonis appointed by that Court, and any such committee, curator bonis, or other person may, on a poll, vote by proxy.

57. No member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the company have been paid.

58. On a poll votes may be given either personally or by proxy.

59. The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorised in writing, or, if the appointor is a corporation, either under seal, or under the hand of an officer or attorney duly authorised. A proxy need not be a member of the company.

60. The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power or authority shall be deposited at the registered office of the company not less than 48 hours before the time for holding the meeting or adjourned meeting, at which the person named in the instrument proposes to vote, and in default the instrument of proxy shall not be treated as valid.

61. An instrument appointing a proxy may be in the following form, or any other form which the directors shall approve:—

Company, Limited.

I, , of ,
in the county of , being a member of the Company, Limited, hereby appoint , of ,
as my proxy, to vote for me and on my behalf at the [*ordinary or extraordinary, as the case may be*] general meeting of the company to be held on the day of and at any adjournment thereof.

Signed this day of

62. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.

Corporations acting by Representatives at Meetings.

63. Any corporation which is a member of the company may by resolution of its directors or other governing body authorise such person as it thinks fit to act as its representative at any meeting of the company or of any class of members of the company, and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual member of the company.

Directors.

64. The number of the directors and the names of the first directors shall be determined in writing by a majority of the subscribers of the Memorandum of Association.

65. The remuneration of the directors shall from time to time be determined by the company in general meeting.

66. The qualification of a director shall be the holding of at least one share in the company.

Powers and Duties of Directors.

67. The business of the company shall be managed by the directors, who may pay all expenses incurred in getting up and registering the company, and may exercise all such powers of the company, as are not, by the Acts or by these Articles, required to be exercised by the company in general meeting, subject, nevertheless, to any regulation of these Articles, to the provisions of the Acts and to such regulations, being not inconsistent with the aforesaid regulations or provisions, as may be prescribed by the company in general meeting; but no regulation made by the company in general

meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not been made.

68. The directors may from time to time appoint one or more of their body to the office of managing director or manager for such term and at such remuneration (whether by way of salary, or commission, or participation in profits, or partly in one way and partly in another) as they may think fit, and a director so appointed shall not, while holding that office, be subject to retirement by rotation, or taken into account in determining the rotation or retirement of directors; but his appointment shall be subject to determination *ipso facto* if he ceases from any cause to be a director, or if the company in general meeting resolve that his tenure of the office of managing director or manager be determined.

69. The amount for the time being remaining undischarged of moneys borrowed or raised by the directors for the purposes of the company (otherwise than by the issue of share capital) shall not at any time exceed the issued share capital of the company without the sanction of the company in general meeting.

70. The directors shall cause minutes to be made in books provided for the purpose—

(*a*) Of all appointments of officers made by the directors;

(*b*) Of the names of the directors present at each meeting of the directors and of any committee of the directors;

(*c*) Of all resolutions and proceedings at all meetings of the company, and of the directors, and of committees of directors;

and every director present at any meeting of directors or committee of directors shall sign his name in a book to be kept for that purpose.

The Seal.

71. The seal of the company shall not be affixed to any instrument except by the authority of a resolution of the board of directors, and in the presence of a director and of the secretary or such other person as the directors may appoint for the purpose; and that director and the secretary or other person as aforesaid shall sign every instrument to which the seal of the company is so affixed in their presence.

Disqualification of Directors.

72. The office of director shall be vacated, if the director—

(*a*) Ceases to be a director by virtue of sect. 73 of the Companies (Consolidation) Act, 1908; or

(*b*) Without the consent of the company in general meeting holds any other office of profit under the company except that of managing director or manager; or

(*c*) Becomes bankrupt; or

(*d*) Becomes prohibited from being a director by reason of an order made under sects. 75 or 76 of the Companies Act, 1928; or

(*e*) Is found lunatic or becomes of unsound mind; or

(*f*) Resigns his office by notice in writing to the company; or

(*g*) Is directly or indirectly interested in any contract with the company or participates in the profits of any contract with the company.

Provided, however, that a director shall not vacate his office by reason of his being a member of any corporation which has entered into contracts with or done any work for the company if he shall have declared the nature of his interest in manner required by sect. 81 of the Companies Act, 1928, but the director shall not vote in respect of any such contract or work or any matter arising thereout, and if he does so vote his vote shall not be counted.

Rotation of Directors.

73. At the first ordinary general meeting of the company the whole of the directors shall retire from office, and at the ordinary general meeting in every subsequent year one-third of the directors for the time being, or, if their number is not three or a multiple of three, then the number nearest one-third, shall retire from office.

74. The directors to retire in every year shall be those who have been longest in office since their last election but as between persons who became directors on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot.

75. A retiring director shall be eligible for re-election.

76. The company at the general meeting at which a director retires in manner aforesaid may fill up the vacated office by electing a person thereto and in default the retiring director shall be deemed to have been re-elected unless at such meeting it is resolved not to fill up such vacated office.

77. The company may from time to time in general meeting increase or reduce the number of directors, and may also determine in what rotation the increased or reduced number is to go out of office.

78. Any casual vacancy occurring in the board of directors may be filled up by the directors, but the person so chosen shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

79. The directors shall have power at any time, and from time to time, to appoint a person as an additional director who shall retire from office at the next following ordinary general meeting, but shall be eligible for election by the company at that meeting as an additional director.

80. The company may by extraordinary resolution remove any director before the expiration of his period of office, and may by an ordinary resolution appoint another person in his stead. The person so appointed shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

Proceedings of Directors.

81. The directors may meet together for the despatch of business, adjourn, and otherwise regulate their meetings, as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes the chairman shall have a second or casting vote. A director may, and the secretary on the requisition of a director shall, at any time summon a meeting of the directors.

82. The quorum necessary for the transaction of the business of the directors may be fixed by the directors, and unless so fixed shall when the number of directors exceeds three be three, and when the number of directors does not exceed three, be two.

83. The continuing directors may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed by or pursuant to the regulations of the company as the necessary quorum of directors, the continuing directors may act for the purpose of increasing the number of directors to that number, or of summoning a general meeting of the company, but for no other purpose.

84. The directors may elect a chairman of their meetings and determine the period for which he is to hold office; but if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the directors present may choose one of their number to be chairman of the meeting.

85. The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit; any committee so formed shall in the

exercise of the powers so delegated conform to any regulations that may be imposed on it by the directors.

86. A committee may elect a chairman of its meetings; if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the members present may choose one of their number to be chairman of the meeting.

87. A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in case of an equality of votes the chairman shall have a second or casting vote.

88. All acts done by any meeting of the directors or of a committee of directors, or by any person acting as a director, shall notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such director or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

Dividends and Reserve.

89. The company in general meeting may declare dividends, but no dividend shall exceed the amount recommended by the directors.

90. The directors may from time to time pay to the members such interim dividends as appear to the directors to be justified by the profits of the company.

91. No dividend shall be paid otherwise than out of profits.

92. Subject to the rights of persons, if any, entitled to shares with special rights as to dividends, all dividends shall be declared and paid according to the amounts paid on the shares, but if and so long as nothing is paid up on any of the shares in the company dividends may be declared and paid according to the amounts of the shares. No amount paid on a share in advance of calls shall, while carrying interest, be treated for the purposes of this article as paid on the share.

93. The directors may, before recommending any dividend, set aside out of the profits of the company such sums as they think proper as a reserve or reserves which shall, at the discretion of the directors, be applicable for meeting contingencies, or for equalising dividends, or for any other purpose to which the profits of the company may be properly applied, and pending such application may, at the like discretion, either be employed in the business of the company or be invested in such investments (other than shares of the company) as the directors may from time to time think fit.

94. If several persons are registered as joint holders of any share any one of them may give effectual receipts for any dividend or other moneys payable on or in respect of the share.

95. Any dividend may be paid by cheque or warrant sent through the post to the registered address of the member or person entitled thereto or in the case of joint holders to any one of such joint holders at his registered address or to such person and such address as the member or person entitled or such joint holders as the case may be may direct. Every such cheque or warrant shall be made payable to the order of the person to whom it is sent or to the order of such other person as the member or person entitled or such joint holders as the case may be may direct.

96. No dividend shall bear interest against the company.

Accounts.

97. The directors shall cause proper books of account to be kept with respect to—

All sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place;

All sales and purchases of goods by the company; and

The assets and liabilities of the company.

98. The books of accounts shall be kept at the registered office of the company, or at such other place or places as the directors think fit, and shall always be open to the inspection of the directors.

99. The directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the company or any of them shall be open to the inspection of members not being directors, and no member (not being a director) shall have any right of inspecting any account or book or document of the company except as conferred by statute or authorised by the directors or by the company in general meeting.

100. The directors shall from time to time in accordance with sect. 39 of the Companies Act, 1928, cause to be prepared and to be laid before the company in general meeting such profit and loss accounts, balance-sheets and reports as are referred to in that section.

101. A copy of every balance-sheet (including every document required by law to be annexed thereto) which is to be laid before the company in general meeting together with a copy of the auditors' report shall not less than seven days before the date of the meeting be sent to all persons entitled to receive notices of general meetings of the company.

Audit.

102. Auditors shall be appointed and their duties regulated in accordance with sects. 112 and 113 of the Companies (Consolidation) Act, 1908, as amended by sects. 39 and 86 of the Companies Act, 1928, and sect. 85 of that Act.

Notices.

103. A notice may be given by the company to any member either personally or by sending it by post to him to his registered address, or (if he has no registered address within the United Kingdom) to the address, if any, within the United Kingdom supplied by him to the company for the giving of notices to him.

Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying, and posting a letter containing the notice, and to have been effected in the case of a notice of a meeting at the expiration of 24 hours after the letter containing the same is posted, and in any other case at the time at which the letter would be delivered in the ordinary course of post.

104. If a member has no registered address within the United Kingdom and has not supplied to the company an address within the United Kingdom for the giving of notices to him, a notice addressed to him and advertised in a newspaper circulating the neighbourhood of the registered office of the company, shall be deemed to be duly given to him at noon on the day on which the advertisement appears.

105. A notice may be given by the company to the joint holders of a share by giving the notice to the joint holder named first in the register of members in respect of the share.

106. A notice may be given by the company to the persons entitled to a share in consequence of the death or bankruptcy of a member by sending it through the post in a prepaid letter addressed to them by name, or by the title of representatives of the deceased, or trustee of the bankrupt, or by any like description, at the address, if any, within the United Kingdom supplied for the purpose by the persons claiming to be so entitled, or (until such an address has been so supplied) by giving the notice in any manner in which the same might have been given if the death or bankruptcy had not occurred.

107. Notice of every general meeting shall be given in some manner hereinbefore authorised to (*a*) every member except those members who (having no registered address within the United Kingdom) have not supplied to the company an address within the United Kingdom for the giving of notices to them, and also to (*b*) every person entitled to a share in consequence of the death or bankruptcy of a member, who, but for his death or bankruptcy, would be entitled to receive notice of the meeting. No other persons shall be entitled to receive notices of general meetings.

The Second Schedule.

FORM A.

FORM OF MEMORANDUM OF ASSOCIATION OF A COMPANY LIMITED BY SHARES.

(1) The name of the company is "The Eastern Steam Packet Company, Limited."

(2) The registered office of the company will be situate in England.

(3) The objects for which the company is established are, "the conveyance of passengers and goods in ships or boats between such places as the company may from time to time determine, and the doing all such other things as are incidental or conducive to the attainment of the above object."

(4) The liability of the members is limited.

(5) The share capital of the company is two hundred thousand pounds, divided into one thousand shares of two hundred pounds each.

WE, the several persons whose names and addresses are subscribed, are desirous of being formed into a company, in pursuance of this Memorandum of Association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names, Addresses and Descriptions of Subscribers.	Number of Shares taken by each Subscriber.
(1) John Jones, of —— in the county of ——, merchant	200
(2) John Smith, of —— in the county of ——, merchant	25
(3) Thomas Green, of —— in the county of ——, merchant	30
(4) John Thompson, of —— in the county of ——, merchant	40
(5) Caleb White, of —— in the county of ——, merchant	15
(6) Andrew Brown, of —— in the county of——, merchant	5
(7) Cæsar White, of —— in the county of —— merchant	10
Total shares taken ..	325

Dated the day of , 19 .

Witness to the above signatures,

A.B., No. 13, Hute Street, Clerkenwell, London.

Note.—Forms B, C and D relate to companies limited by guarantee and unlimited companies.

FORM E.

FORM OF ANNUAL RETURN OF COMPANY HAVING A SHARE CAPITAL.

Annual Return of the Company, Limited, made up to the day of , 19 (being the fourteenth day after the date of the first or only ordinary general meeting in 19).

The address of the registered office of the Company is as follows:—

.....

SUMMARY OF SHARE CAPITAL AND SHARES.

Nominal share capital £ , divided into* { shares of £ each. / shares of £ each.

Total number of shares taken up* to the day of , 19 , being the date of the Return (which number must agree with the total shown in the list as held by existing members).

Number of shares issued subject to payment wholly in cash .. ..

Number of shares issued as fully paid up otherwise than in cash .. ..

Number of shares issued as partly paid up to the extent of per share otherwise than in cash

†Number of shares (if any) issued at a discount .. ..

Total amount of discount on the issue of shares which has not been written off at the date of this Return .. .. £

‡There has been called up on each of shares .. £

‡There has been called up on each of shares .. £

‡There has been called up on each of shares .. £

§Total amount of calls received, including payments on application and allotment .. .. £

Total amount (if any) agreed to be considered as paid on shares which have been issued as fully paid up otherwise than in cash .. £

Total amount (if any) agreed to be considered as paid on shares which have been issued as partly paid up to the extent of per share otherwise than in cash.. .. .. .. £

Total amount of calls unpaid .. .. .. £

Total amount of the sums (if any) paid by way of commission in respect of any shares or debentures or allowed by way of discount in respect of any debentures since the date of the last Return .. .. £

Total number of shares forfeited .. ..

Total amount paid (if any) on shares forfeited £

Total amount of shares for which share warrants to bearer are outstanding .. .. .. £

Total amount of share warrants to bearer issued and surrendered respectively since the date of the last Return .. .. { Issued £ / Surrendered £

Number of shares comprised in each share warrant to bearer .. ..

Total amount of the indebtedness of the company in respect of all mortgages and charges of the kind which are required (or, in the case of a company registered in Scotland, which, if the Company had been registered in England, would be required) to be registered with the Registrar of Companies under the Companies Acts, 1908 to 1928 .. .. £

COPY OF LAST AUDITED BALANCE SHEET OF THE COMPANY.

Note.—Except where the company is (1) a "private company" within the meaning of sect. 121 of the Companies (Consolidation) Act, 1908, as amended by the Companies Act,

* Where there are shares of different kinds or amounts (*e.g.*, Preference and Ordinary or £1 and 1s.) state the number and nominal values separately.

† If the shares are of different kinds, state them separately.

‡ Where various amounts have been called, or there are shares of different kinds, state them separately.

§ Include what has been received on forfeited as well as on existing shares.

1913, or is (2) an assurance company which has complied with the provisions of sect. 7 (4) of the Assurance Companies Act, 1909, this Return must include a written copy, certified by a director or by the manager or secretary of the company to be a true copy, of the last balance-sheet which has been audited by the company's auditors (including every document required by law to be annexed thereto) together with a copy of the report of the auditors thereon (certified as aforesaid), and if any such balance-sheet is in a foreign language there must also be annexed to it a translation thereof in English certified in the prescribed manner to be a correct translation. If the said last balance-sheet did not comply with the requirements of the law as in force at the date of the audit with respect to the form of balance-sheets there must be made such additions to and corrections in the said copy as would have been required to be made in the said balance-sheet in order to make it comply with the said requirements, and the fact that the said copy has been so amended must be stated thereon.

PRIVATE COMPANY.

Certificates to be given by a private company:—

(A) "I certify that the company has not, since the date of the *last Annual Return, issued any invitation to the public to subscribe for any shares or debentures of the company."

(Signature)

(State whether Director or Secretary.)

(B) Should the number of members of the company exceed fifty the following certificate is also required:—

"I certify that the excess of members of the company above fifty consists wholly of persons who are in the employment of the company and/or of persons who, having been formerly in the employment of the company were while in such employment, and have continued after the determination of such employment to be, members of the company."

(Signature)

(State whether Director or Secretary.)

Note.—Banking companies must add a list of all their places of business.

The Return must be signed at the end by a director or by the manager or secretary of the company.

Presented for filing by

PARTICULARS OF THE †DIRECTORS OF THE COMPANY, LIMITED, AT THE DATE OF THE ANNUAL RETURN.

‡ The present Christian Name or Names and Surname.	Any former Christian Name or Names and Surname.	Nationality.	Nationality of Origin (if other than the present Nationality.	Usual Residential Address.	§ Other Business Occupation, if any. If none, state so.

* In the case of the first Annual Return strike out the words "last Annual Return" and substitute therefor the words "incorporation of the Company."

† "Director" includes any person who occupies the position of a director, by whatever name called, and any person in accordance with whose directions or instructions the directors of a company are accustomed to act.

‡ In the case of a corporation its corporate name and registered or principal office should be shown.

§ In the case of an individual who has no business occupation but holds any other directorship or directorships, particulars of that directorship, or of some one of those directorships, must be entered.

List of persons holding shares in the Company, Limited, on the day of , 19 , and of persons who have held shares therein at any time since the date of the last Return, or (in the case of the first Return) of the incorporation of the company, showing their names and addresses, and an account of the shares so held.

Note.—If the names in this list are not arranged in alphabetical order, an index sufficient to enable the name of any person in the list to be readily found must be annexed to this list.

Folio in Register Ledger, containing Particulars.	NAMES, ADDRESSES AND OCCUPATIONS.				ACCOUNT OF SHARES.					
	Surname.	Christian Name.	Address.	Occupation.	* Number of Shares held by existing Members at date of Return. †	‡ Particulars of Shares Transferred since the date of the last Return, or (in the case of the first Return) of the Incorporation of the Company, by persons who are still Members.		‡ Particulars of Shares Transferred since the date of the last Return, or (in the case of the first Return) of the Incorporation of the Company, by persons who have ceased to be Members.		Remarks.
						† Number.	Date of Registration of Transfer.	† Number.	Date of Registration of Transfer.	

(Signature)

(State whether Director or Manager or Secretary.)

* The aggregate number of shares held, and not the distinctive numbers, must be stated, and the column must be added up throughout so as to make one total to agree with that stated in the Summary to have been taken up.

† When the shares are of different classes these columns may be sub-divided so that the number of each class held, or transferred, may be shown separately. Where any shares have been converted into stock the amount of stock held by each member must be shown.

‡ The date of registration of each transfer should be given as well as the number of shares transferred on each date. The particulars should be placed opposite the name of the transferor, and not opposite that of the transferee, but the name of the transferee may be inserted in the "Remarks" column immediately opposite the particulars of each Transfer.

Reviews.

Tax Cases: Digest and Index of Official Reports. (*Fourth Edition.*) *By Sir Edward R. Harrison, LL.B., Barrister-at-Law. London: H. M. Stationery Office, Adastral House, Kingsway, W.C. (904 pp. Price £1 15s. net.*)

This publication is compiled for the Board of Inland Revenue, and the present edition has been re-arranged and considerably enlarged. Hitherto the work has been presented in four distinct sections dealing respectively with Income Tax, Super Tax, Inhabited House Duty and Corporation Duty. On this occasion, however, the principal contents, irrespective of the character of the cases, are embodied in two sections only. Part 1 is in the form of an index, and Part 2 constitutes a digest of the facts and the judgments. The book is a very useful one, especially to practising accountants. In all cases references are given to sources where extended reports are to be found.

Notes on Bankruptcy Law. *By V. R. Anderson, A.C.A. London: Sir Isaac Pitman & Sons, Limited, Parker Street, Kingsway, W.C. (76 pp. Price 2s. 6d. net.)*

This is a useful little book setting out under convenient headings in a very condensed form the requirements of the Bankruptcy Act in relation to the different matters relating to the winding-up of a bankrupt's estate. There are separate chapters dealing with Creditors' Meetings, the Trustee, the Property of the Bankrupt, the Doctrine of Relation Back, Dividends, Provable Debts, &c., and the information is set out in the form in which one might make notes when looking up particular points in a large text book.

Alpe's Law of Stamp Duties. (*Nineteenth Edition.*) *By A. R. Rudall, Barrister-at-Law. London: Jordan & Sons, Limited, 116/118, Chancery Lane, W.C.*

The law of Stamp Duties has been largely affected by a number of Acts of Parliament relating to the Law of Property which came into operation in 1926. The alterations rendered necessary by these enactments and by cases decided in the Courts have been given effect to in Mr. Rudall's book, which is a standard work on the subject. The text is supplemented by some notes on practice by Mr. H. W. Jordan.

Manual of Secretarial Practice. *By F. D. Head, B.A., Barrister-at-Law, F. Porter Fausset, M.A., LL.B., and H. A. R. J. Wilson, A.C.A., A.S.A.A. London: Macdonald & Evans, 8, John Street, Bedford Row, W.C. (694 pp. Price 10s. 6d. net.)*

This Manual of Secretarial Practice has been issued under the auspices of the Incorporated Secretaries Association with the authority of the Council of that body. Mr. Head is well known as a writer on secretarial matters and the other authors are well qualified for dealing with the subject. The work covers the whole field of secretarial practice including incorporation and flotation of companies, calls on shares, transfers of shares, the functions of directors, audits and investigations, meetings, proxies and powers of attorney, liquidations, stamp duties, &c. The appendix also contains numerous forms applicable to different circumstances, and altogether the publication constitutes a very complete hand book.

Principles and Practice of Book-keeping and Accounts. (*Fourth Edition.*) *By B. G. Vickery, F.C.A., F.S.A.A. London: The Gregg Publishing Company, Limited, Kern House, 36/38, Kingsway, W.C. (610 pp. Price 12s. 6d. net.*)

A very wide field is covered in this book, including as it does the Accounts of firms and companies, Partnership Accounts, Cost Accounts and the Accounts of Banks and Insurance Companies. A chapter is also devoted to Statements of Affairs in Bankruptcy, Deeds of Arrangement and Company Liquidation. The book contains a large amount of information well classified and clearly expressed, but in the desire to be comprehensive there is sometimes an excess of brevity.

Accounts of Rating Authorities. (*Third Edition.*) *By E. C. Riding, F.S.A.A., Borough Treasurer, Torquay. Published by the author at 3s. net.*

The accounts of rating authorities in the form in which they are required to be kept under the Rate Accounts Order of the Ministry of Health under the Rating and Valuation Act, 1925, are fully set out and briefly explained in this little book.

Summary of the Law of Arbitrations and Awards. (*Second Edition.*) *By E. Miles Taylor, K.C.A., F.S.A.A. London: Macdonald & Evans, 8, John Street, Bedford Row, W.C. (84 pp. Price 5s. net.)*

Mr. Taylor has condensed the Law of Arbitration into a very small space, but he claims that students will find that all their requirements are met. The matter is arranged in convenient form and nothing unnecessary has been introduced.

Exercises in Economics. *By Alfred Plummer, M.Sc.(Econ.), M.A., LL.D. London: Sir Isaac Pitman & Sons, Limited, Parker Street, Kingsway, W.C. (78 pp. Price 2s. net.)*

Accountancy students, who usually regard Economics as a troublesome subject, will find in this little book some useful advice and assistance. Starting with a number of questions and their solutions, the author follows with a further set of questions with skeleton answers which the reader is invited to amplify and complete, and finally a number of selected examination problems are given for the purpose of enabling the reader to test his knowledge. The skeleton answers are useful. They give the student a general indication of what is required, leaving him to apply the knowledge he has acquired in "clothing them with flesh."

Kinematograph Trade Accounts. *By Charles H. Travis, F.C.A. London: Gee & Co. (Publishers), Limited, 6, Kirby Street, E.C. (68 pp. Price 5s. net.)*

The object of this little book is primarily to assist accountants and their staffs in dealing with Kinematograph Trade Accounts, but the books and records are explained in sufficient detail to prove of use to proprietors of Picture Houses who keep their own records. The author discusses Internal Check, Monthly Estimates of Profit and Loss and the method of checking returns from the Theatre to the Head Office. The use of Charts and Graphs for statistical purposes is also explained, and the text is supplemented by specimen accounts and rulings of books.

An Executor's Accounts. (*Second Edition.*) *By E. Miles Taylor, F.C.A., F.S.A.A., and C. L. Lawton, A.C.A. London: Macdonald & Evans, 8, John Street, Bedford Row, W.C. (200 pp. Price 8s. 6d. net.)*

This is a book designed primarily for students, the object aimed at being to indicate the best method of answering typical examination problems. The book nevertheless embodies a good deal of information which practitioners will find useful. Questions of apportionment are fully discussed, and the writing up of the accounts explained in detail.

Changes and Removals.

Messrs. Burrows & White, Incorporated Accountants, have removed to Prudential Buildings, Queen Street, Nottingham.

Mr. John H. Hort, Incorporated Accountant, has removed to 202, Stanley Road, Bootle.

The partnership hitherto existing between Mr. H. A. McCann and Mr. W. D. Beatton, under the style of McCann, Beatton & Co., Incorporated Accountants, has been dissolved by mutual consent. Mr. Beatton will in future practise in partnership with Mr. C. A. G. Hewson under the style of Beatton, Hewson & Co., at 127/130, Moorgate Station Chambers, Moorfields, London, E.C., and Mr. H. A. McCann, will practise on his own account at Revenue House, 7/8, Poultry, London, E.C.

Some Aspects of Rationalisation.

A Lecture delivered before the Yorkshire and Sheffield District Societies of Incorporated Accountants

BY

SIR MARK WEBSTER JENKINSON, K.B.E., F.C.A.

Rationalisation is the mobilisation of the fighting forces of an industry against the attack of the foreign manufacturer.

It is accomplished by the fusion of manufacturing capacity and the closing down of redundant units to eliminate waste and loss, production being concentrated in the best equipped shops under the most favourable output conditions. It implies not merely a reconstruction of capital, a reorganisation of management, a re-shuffling of plant, but a revolution in our ideas, in our mentality, in our outlook on the industrial situation.

But although in the Press, on the platform, and with politicians there is practically unanimity of opinion that development in this direction is essential for the safeguarding of British industry, few appear to contemplate the ultimate result of the realisation of such policy or to understand that the amalgamation of "like with like" is merely a preliminary legal process which makes it possible.

Industrial restoration demands:—

(*a*) Merger.

(*b*) Modernisation.

(*c*) Management.

(*a*) Merger.

This entails the amalgamation of the kindred businesses carried on by firms engaged in the same class of trade, grouped according to their geographical situation, and the elimination of the inefficient undertakings which, except in boom periods, can never produce competitively owing to bad lay-out, uneconomic plant, and incompetent management, and whose turnover if added to that of the efficient concerns would enable the production costs of the latter to be reduced.

(*b*) Modernisation.

Capital must be provided to erect the best and most completely equipped works in accordance with the most advanced practice on sites capable of expansion and supplied with the necessary transport and services.

(*c*) Management.

Men must be found capable of realising the need for fighting foreign competition rather than securing a larger proportion of the home trade at "cut prices"; men who are not afraid to eradicate waste and inefficiency however distasteful the task may be; men who appreciate the importance of giving the young men an opportunity to assume responsibility and who, when posts become vacant, place more value on brains than on social status; men who understand the value of team work, and who can build up an organisation each member of which is imbued with the desire for progress; men who recognise that industrial management demands a wider outlook than cutting down piece-work prices to the minimum and screwing the last sixpence out of the customer.

Management to-day requires men who are trained to carry out the functions they are called upon to exercise, and if they are not available the right material must be found and educated for the purpose.

Before any general rationalisation of industry can take place, many difficulties have to be surmounted, including:—

(*a*) The natural aversion of independent undertakings to amalgamation.

(*b*) The "vested interests" of directors and others who fear the loss of office.

(*c*) The financial position of many companies which are in the hands of banks and debenture holders.

(*d*) The interlocking of manufacturing interests due to multiple-trade activities.

(*e*) The difficulty on amalgamation of safeguarding the rights of different classes of shareholders and debenture holders.

(*f*) The realised loss of capital which will ensue, part of which will have to be written off.

(*g*) The problem of raising new capital for depressed industries.

(*h*) The fact that the majority of those engaged in trade do not realise the need for consolidation nor the advantages which should accrue.

The aim of rationalisation is to effect an increase in consumption and reduction in selling prices through:—

(1) Concentration of production in works where low manufacturing costs are obtainable with a view to "full time" output.

(2) Installation of labour saving plant to obtain a "speed up" in the rate of production.

(3) Segregation of particular products to individual works.

(4) Standardisation of production and increased research work.

(5) Reduction of transport charges.

(6) More economical use of power.

(7) Reduction in fixed charges by centralisation of administration.

(8) Concentration of selling organisation, and in some cases the elimination of the "middleman."

(9) Avoidance of destructive price cutting.

(10) Centralised financial control.

The mere fusion of independent concerns into one union is not rationalisation, but it affords the opportunity to carry out the reconstruction of an industry rendered necessary by the changed conditions arising from the development of mechanisation and the increased manufacturing capacity of other countries who were formerly our customers.

The fact that to-day we are outstripped in the race for commercial supremacy by American and by German and other Continental competitors may, in part, be ascribed to our superiority in the industrial renaissance of the mid-Victorian era, the initial advantage we gained as pioneers having induced a mental attitude of conservatism in methods of production and organisation that is not easily eradicated.

Those who deplore the necessity for rationalisation and the disappearance of individualism in business forget that their grandfathers, who founded the concerns with which they are associated, had more time available to devote to business than is possible under the conditions of life to-day; that the exactions of social life, the attractions of foreign travel, and the distractions of sport weighed less heavily upon them; that to them business was not only a means of livelihood but also a hobby.

In their days "restriction of output" and the limitation of working hours were unknown—master and men were both obsessed with the importance of work.

Their grandfathers had, however, one advantage over the business men of to-day—they did not work at such high pressure, their radius of daily operations was more limited, they spent less time at board meetings and committees.

May it not be that those mid-Victorian gentlemen, whose portraits adorn the board rooms of the businesses which they founded and which bear their name, owed some measure of their success to the fact that they had sufficient leisure to ponder carefully over the problems which confronted them; they had time to think, and, therefore, knew how to work to achieve their goal.

FINANCIAL BASIS UPON WHICH RECONSTRUCTION IS TO BE EFFECTED.

When two or more companies adopt the principles of rationalisation and decide to amalgamate, the difficulty which first arises is to settle the financial basis of the fusion—a problem frequently delegated to their auditors.

Without in any way disparaging the abilities of professional accountants, it must be admitted that auditors can only deal with facts disclosed by past records, and they cannot and cannot be expected to express in figures the profits which might have been earned under efficient management; the reduction in labour costs obtainable by the introduction of new plant, the installation of which is only justified by the concentration of production; the benefits arising from the free exchange of patents and technical knowledge; the losses which can be avoided by the removal of indiscriminate competition; or the gain in bargaining power with foreign groups of a large corporation compared with a small unit.

Yet these are only a few of the factors to be taken into consideration in fixing the relative values of the businesses to be amalgamated and the capitalisation and future earning power of the combine to be created.

The three main questions are:—

(*a*) The value to the combine of the fixed and floating assets of each business;

(*b*) The goodwill of each business having regard to its future earning capacity;

(*c*) The earning power of the combine in the future;

and although an independent accountant is needed to investigate the figures and present the results, it is essential that he be assisted by technical advisers with some further knowledge of the business than can be derived from the financial books.

Capital in a manufacturing concern is represented by

(*a*) Fixed assets, a profit from which is made from use and occupation;

(*b*) Floating assets which are either those acquired for the purpose of resale at a profit, or those representing an incomplete stage in the conversion into cash, and

(*c*) Fictitious assets consisting of expenditure not represented by tangible assets.

The idea that the value of the fixed assets is in direct relation to the original cost as shown by the books, less an arbitrary provision for depreciation, is one that is generally although wrongly held.

The value of the fixed assets is merely the capitalised value of future earnings plus the scrap value of the asset.

A new invention, a sudden change in fashion, the loss of buying power of a principal customer, wars, or peace-pacts are all factors which may unexpectedly destroy temporarily, or for all time, the profit earning capacity of fixed assets, and plant units may become of no worth although still physically as good as ever.

When considering the amalgamation of various businesses the "valuation standard" is not the original cost nor the replacement value of the fixed assets, but the revenue yield which will be obtainable, the relative value of each concern being calculated on the same basis. Various methods can be adopted according to the circumstances of each case, but as regards the fixed assets a convenient way is to accept the book value at the balance-sheet date prior to August 1914, add thereto all capital expenditure made before the end of 1920, deduct all writings off allowed for war expenditure, munitions levy, excess profits duty and extra depreciation, and then depreciate at the usual rates up to the date of the fusion.

Each concern is thus treated on the same basis and the margin of error is reduced by the cumulative writing off from the original book value.

Some adjustment may, however, be necessary according to the type of capital expenditure incurred during the war period and in respect of expenditure at the high prices which prevailed immediately after the war.

Subject, however, to these corrections the resultant figures should indicate a fair ratio between one concern and another of the respective values on a cost, as against a profit earning, basis.

The goodwill value should be calculated on the profits for a period of not less than five years (the strike year being excluded) and, after adjustment for depreciation on the revised valuations for fixed assets, and for items of income and expenditure not applicable to the future trading of the combine, a deduction for interest at say 6 per cent. per annum on the capital employed in the business should be made. If the profits earned are not sufficient to cover the interest charge it indicates that the fixed assets have not a value to the combine commensurate with the revised book value, and therefore a reduction in the value of the fixed assets to the extent of the deficiency must be effected.

It may happen, however, under present conditions, that the profit records of each of the parties disclose no goodwill value, or a deficiency to be deducted from the fixed assets, although under normal trade conditions, and particularly as the result of the fusion, substantial profits should be earned.

It may therefore be unfair to regard the goodwill as of no value particularly if the turnover, or the nature of the output, will be more valuable to the combine in the case of one or more of the concerns than of the others.

In such cases an equitable method is to arrive at the respective goodwill values by calculating "standard profits" on the basis of past output at hypothetical rates of profit for the different departments or types of business, such rates being fixed by some independent party with a technical knowledge of the business after taking into consideration the profits which should be earned under normal conditions on a full output basis.

From the "standard profits" so ascertained interest on the capital employed will be deducted and say five years' purchase of the balance treated as the goodwill value of each business to the combine.

In order, however, to prevent the combine from being over capitalised at the start it is desirable to reduce the value of the goodwill of each vendor by the amount of goodwill allocated to the lowest. Thus, if the figures ascertained were:—

Company	A	£500,000
,,	B	300,000
,,	C	200,000

the goodwill values would be fixed:—

Company	A	£300,000
,,	B	100,000
,,	C	Nil.

Patents, trade marks, &c., should be treated as included in the goodwill value unless there are any special circumstances such as valuable patents recently acquired from which no benefit from a trading standpoint has been obtained, but practically in all cases of fusion the capital value of the fixed assets of each concern has finally to be settled by negotiation after taking into consideration the various special factors which affect the figures obtained from the books.

The ascertainment of the value of the floating assets does not usually present any serious difficulty, a uniform basis of valuation being adopted for each concern, although work in progress may raise problems in cases where there are large contracts to be completed, and particularly if the overhead charges are not being absorbed, it being necessary to fix the oncost rate to be applied on the work yet to be done and to estimate the profit, or loss, on completion.

If the vendor companies are to receive the profit accrued due (less losses estimated on unprofitable contracts) at the date of the transfer, the effect, although equitable as between the parties, may be to reduce materially the profits earned in the first year of the combine.

For example, if company A has work in progress valued in its balance-sheet on the basis of labour, materials and shop oncost only (the method usually adopted) at £500,000 and company B £300,000, and after adjusting the overhead charges to the true percentage and adding the profit accrued due (less losses), the figures were company A £600,000 and company B £375,000, the effect at the end of the first year's trading of the combine, assuming the normal method of valuation is adopted, is to reduce the profits of the year by £175,000.

Such result is inevitable if the vendor companies are to receive the true value of the work in progress transferred. Provision must be made in the sale agreement to cover any liability for claims arising in respect of past deliveries and liabilities not disclosed by the books.

The rationalisation of industry has only been made possible by the concessions available under sect. 55 of the Finance Act, 1927, which gives relief from capital and transfer stamp duties in the case of the reconstruction or amalgamation of companies.

Under this section the combine (whether a new company, or one which increases its share capital for the purpose of fusion or for the acquisition of at least 90 per cent. of the issued capital of another company) can escape payment of stamp duty up to the amount of the stamp duty already paid in respect of the share capital of the existing company which is absorbed, or, if part only of an undertaking is acquired, on such proportion of the share capital as the value of the part of the undertaking transferred to the combine bears to the whole.

The relief is, however, limited to the duty payable on the amount paid up on the shares issued in exchange for the assets or shares transferred. The consideration payable by the combine must also consist of at least 90 per cent. (subject to the discharge of liabilities) of shares in the combine to be issued to the existing company or its holders for the assets which it acquires.

No conveyance duty under the First Schedule to the Stamp Act, 1891, or under sect. 12 of the Finance Act, 1895, is payable on any instrument vesting the undertaking or shares in the transferee company.

If, however, the shares in the transferee company are transferred within two years to a third party, other than on a reconstruction, amalgamation, or liquidation of the existing company, or if the transferee company part with the shares acquired, the duty otherwise payable, together with interest at 5 per cent. per annum, becomes due.

Where the benefit of sect. 55 of the Finance Act, 1927, cannot be obtained, the stamp duty on transfers of shares can be avoided by altering the Articles of Association of the transferor company to permit "verbal transfers," but when the Companies Act, 1928, comes into force this method will no longer be practicable (*vide* sect. 8).

In connection with the financial basis upon which amalgamations are effected, those who represent the amalgamating companies must view the matter from a broad standpoint with a full and proper appreciation of the benefits to be derived by each party from the economies which will be effected by the fusion and the development of the industry which will thus be rendered possible.

THE DISPLACEMENT OF LABOUR IN THE EARLY STAGES.

Rationalisation, by an increase in the consumption and use of commodities as the result of a reduction in production cost, should effect an increase in the number employed in an industry, but before this can be effected there must, of necessity, be a displacement of labour following the closing down of inefficient works and the introduction of labour saving machinery.

For this reason any general rationalisation of industry can only be carried out with the co-operation of the trades unions and the Government, otherwise the number of unemployed will be a source of trouble which will prejudice public opinion and increase the burden of taxation which industry has to bear.

In Germany, where rationalisation was the only alternative to national ruin, the workers themselves realised that drastic sacrifice had to be made by everyone associated with industry, and the Government assisted by special grants for unemployment relief and by hurrying forward public utility schemes to absorb some of the redundant workers in other trades.

Further, the capital expenditure necessary to equip the modernised works at once stimulated production in coal, steel and engineering, and this, in turn, reacted favourably on the other industries.

Both employers and labour have to appreciate that, whether they like it or not, we cannot hold our own as an industrial nation unless we adapt ourselves to the new conditions imposed upon us by the changes which have taken place in other countries, and if we fail to recognise that pre-war methods in industry are no longer applicable, our resistance to the new mentality will inevitably bring disaster.

If, however, we decide to follow this new road, how can we deal with the displaced labour during the transition period?

Industry cannot maintain any increase in the charge for the unemployed as the savings effected by rationalisation would merely be swallowed up by further taxation; on the other hand, industry cannot reduce its production costs and immediately absorb the same number of workers.

The Government can, however, assist by providing cheap finance for various public utility companies to proceed with schemes of capital improvement.

For example:—

(*a*) The substitution, over a period of seven years, of steel coaches for wooden rolling stock would find work for a large number of people, and also, by the use of home manufactured material, avoid the importation of foreign timber.

(*b*) The electrification of suburban lines around our principal provincial cities would stimulate industry and help to solve the housing problems of congested areas.

(*c*) The acceleration of schemes for the provision of cheap electric power, and encouragement for the installation of electric current in every house, would find work for large numbers.

(*d*) Municipalities could be assisted with road widening and town replanning schemes necessitated by the increase in traffic requirements.

(*e*) A practical "back to the land" scheme and the reclamation of waste land would add to the home supply of food.

These examples are merely mentioned by way of illustration, and others could be cited, but in cases of this type, if the Government were willing to assist in raising the capital required on easy terms, repayment being spread over long periods, it would afford the breathing space which industry requires and at the same time stimulate business, as practically the whole of the expenditure would find its way into other trades.

Rationalisation of industry, which, ultimately, will increase consuming capacity and put industry on a scientifically managed basis, must eventually improve the conditions of labour, and therefore it behoves both the Government and the labour leaders to assist in devising means to bridge the unemployment gulf which will open in the process of the change over.

ORGANISATION OF CONTROL.

The success or failure of any undertaking depends on the personnel directing the administration, and the greater the size of the business the more important becomes the organisation of the management.

The amalgamation of various enterprises under one control inevitably presents managerial problems of exceptional difficulty.

If the business is to reap the full benefit of rationalisation it is essential that the board and responsible officials shall be selected on merit only, and, if necessary, strengthened by the introduction of fresh blood, but in practice it generally occurs that certain "vested interests" have to be considered, otherwise the scheme itself may be jeopardised.

In such cases it is better to shoulder some financial liability in the form of pensions, retainers, &c., to those whose services it is not desired to continue rather than to weaken the future organisation by the inclusion of inefficient members, and in the end such policy is the cheaper as the increased profits to be earned by the efficient management will cover, many times, the financial solatium awarded to those who are displaced.

Some confusion of thought exists as to the type of organisation required under modern conditions to direct and control a large industrial undertaking.

The functions of the administration may be grouped as follows:—

(1) General policy.
(2) Finance.
(3) Control of Expenditure.
(4) Production.
(5) Marketing.
(6) Purchasing.
(7) Research.
(8) Accounting and statistics.

The control of the last five of these functions must necessarily be exercised by experts in each branch but it does not consequently follow that they are best suited either by experience, training or temperament to deal with questions of general policy or finance nor to exercise control on the expenditure which they recommend should be incurred.

It is therefore suggested that the ideal administration should consist of two boards of directors, viz, "control" and "executive."

The Control Board should be limited in number to seven or nine members and should comprise:—

(*a*) Chairman,
(*b*) Managing director,
(*c*) Chairman of Executive Board,

and at least four other directors not occupying executive positions in the company, appointed by reason of either their particular knowledge of the industry or finance, or their general business acumen.

The Executive Board would constitute the actual management and should consist of:—

(*a*) Chairman.
(*b*) Managing director.
(*c*) Director of production.
(*d*) Director of sales.
(*e*) Director of purchases.
(*f*) Controller of accounts (responsible for accounting, statistics and internal expenditure).
(*g*) Any other responsible technical official such as chief engineer, director of research, &c., as the nature of the business demands.

The Control Board would exercise a general supervision over the business and would be responsible to the shareholders for the efficient conduct of the company.

Their duties, *inter alia*, would be:—

(*a*) To direct the general policy.
(*b*) To consider periodical financial and progress reports from the executive board and the minutes of their meetings.
(*c*) To sanction capital and other expenditure over certain limits to be fixed.
(*d*) To approve transactions involving financial liability in excess of a certain amount as determined.
(*e*) To approve investments and loans or the acquisition of a financial interest in any outside undertaking.
(*f*) To pass transfers and conduct the formal business of the company.
(*g*) To recommend to the shareholders what dividend should be paid.
(*h*) To deal with the financial requirements of the company.
(*i*) To appoint the members of the executive board and fix their remuneration, and to approve the appointment of certain of the higher officials nominated by the executive board.
(*j*) To settle questions of principle.
(*k*) To deal with any other matters referred to the general board by the executive board, such as pending litigation, pensions, leases, and tenders involving special losses on particular contracts.

In order to provide the necessary link between the executive board and the control board the latter would include two or three full time executive directors, such as the chairman of the executive board, the managing director, and possibly the sales director, the constitution of the respective boards varying with the nature and size of the business. The majority of the control board would, however, consist of part time directors selected because of their general knowledge of finance and commerce.

The divorce of control from management is a step rendered necessary by the evolution of business organisation and is merely a natural corollary to the transfer of the entire management and control of a business from the individual proprietor to a board of directors, a change which has already occurred.

From the point of view of the shareholders the suggested method would offer many advantages. A check would exist on inefficient management, and incapable executive directors would be replaced when necessary; expenditure would be subjected to a close scrutiny without interested parties resenting the criticisms of their colleagues; errors of principle such as bad finance, unprofitable investments and uneconomic development would be laid at the door of those responsible without the executive management being saddled with any share of the blame; and business men of exceptional ability would be found willing to accept directorships on the control board without becoming immersed in details of domestic policy which, under existing conditions, frequently take up so much time at board meetings.

Rationalisation demands a demarcation of the duties of control, policy and finance from the duties of management, and if this were done the result would be to remove much of the criticism now directed, and often properly directed, against the administration of limited liability companies.

In the early days of joint stock companies the directors were usually selected because of their financial interest in the business, the executive functions being exercised by a manager.

Latterly, the tendency has been for the boards of industrial companies to be composed mainly of administrative officers, and possibly as a reaction from the "guinea pig" director shareholders have pressed for the appointment of "whole time" directors.

The danger exists, however, that officials, selected for their technical qualities, who are appointed directors may "dig themselves in," with the result that their co-directors, who also exercise executive functions, cannot displace them and frequently do not appreciate the need for disturbing the "happy family," or fear that if they do so their own salaried positions may be jeopardised.

In fact in large companies, where the capital is widely spread, the board, instead of being the servants of the shareholders, may arrogate to themselves the powers of a Soviet in the administration of the affairs of a company—a position from which only a well organised agitation can dislodge them.

It must not be inferred that such criticism applies to the boards of all companies, but the fusion of financial interests which rationalisation involves increases the risk of boards, comprised wholly of officials occupying salaried positions, recruiting new members of the board from the executive officers, and thus depriving the shareholders of any direct representation in the control of the company's policy and finance.

Such result would not tend to the ultimate good of the company, of the particular industry, nor of joint stock enterprise generally as it implies bureaucratic control.

This aspect of rationalisation is one which those responsible for the organisation should not overlook.

Selling Policy.

Mr. F. W. Goodenough, the President of the Incorporated Sales Managers' Association, recently pointed out that increased efficiency in production and in technical education has not been accompanied by an equal increase in efficiency in marketing, or in education for salesmanship.

There is no doubt that, generally, our foreign competitors are superior in their selling methods and employ more highly skilled technical representatives in the markets of other countries where they are seeking trade.

The amalgamation of businesses will facilitate the employment of a better-paid, better-educated type of salesman; it will enable the foreign agent, who knows nothing about the products he sells and who probably has never visited the works, to be replaced by direct representatives who can appreciate the customers' requirements and take steps to ensure that they are met; it will afford an opportunity for the creation of a proper sales organisation which can co-operate with the production side of the business in determining the lines to be developed, the markets to be attacked, the stocks to be carried, and the selling prices to be fixed, an organisation fortified with proper intelligence reports from its representatives and assisted by adequate statistical information.

We must realise that times have changed, and we now have to sell to the customer what he wants to buy, instead of letting him buy from us what we have to sell.

Increased efficiency in production will be wasted unless it is accompanied by increased efficiency in our selling activities. Profitable markets for our goods have to be found, created, and maintained in competition with those whose patience, pertinacity, and perseverance are of a higher quality than the products they offer for sale.

An efficient selling force which can diagnose the problems and survey the requirements of each market cannot, however, be recruited in a moment; the personnel must be carefully selected and trained and, when possible, chosen from those who have had practical experience in production; men who may be successful in one country may be quite unsuitable for another part of the world. The machinery of the sales organisation must be considered and planned as carefully as the lay-out of the shops.

No board of control nor executive board can make sound decisions for the development of a business unless they have before them a considered survey of markets to guide them.

Upon commercial intelligence depends the sales policy and production arrangements.

The directors of the rationalised companies must also realise the importance of emulating the example of their competitors by personally visiting the principal foreign markets at regular intervals. When an important contract is to be placed in any part of the world German, American and French directors, together with those of other nationalities, are there exercising all their weight and influence to obtain the order—the British firms, if represented at all, frequently have their interests watched by some underpaid salesman who has probably not been in personal contact with the works for two or three years, and who dare not alter by a comma the terms of his firm's offer without cable instructions from home.

If rationalisation can alter the mentality of our selling methods the movement will not have been in vain.

Research and Standardisation.

Although considerable progress has been made during the past ten years there is little doubt that industries in other countries are far ahead of Great Britain in the application of science to the solution of industrial problems, and to the advantages to be derived from the use of new and improved methods of manufacture.

Without in any way deprecating the work accomplished by the Department of Scientific and Industrial Research, which has both induced industries to organise and conduct their own research by means of Industrial Research Associations, and also itself carried out important research work of national

importance, it is also equally vital that the concerns engaged in industry shall themselves undertake a considerable programme of specific research for their own benefit.

Research work takes a long time before results are obtained, and involves heavy expense both in staff and equipment.

In one of those valuable reports on "Factors in Industrial and Commercial Efficiency" issued by the Balfour Committee (reports which it is to be feared have not been studied as they deserve to be), information is given of the amounts spent on research by some of the large American concerns.

In 1924 the General Electric Company spent $3,000,000, the Du Pont Co. $2,000,000, General Motors $1,000,000, and the staff employed on research in the laboratories of these firms ranged from 250 to over 500.

The research laboratories of the Bell Telephone Company and its associate, the American Telephone and Telegraphy Company, employ a staff of 4,000 persons, of whom 1,800 are trained engineers, chemists, or other scientific men.

One of the German companies, manufacturing chemical and allied products, employs 2,000 research chemists, and the large iron and steel corporations also spend large sums for research purposes, one concern alone devoting £600,000 to experimental work in connection with the distillation of coal.

In Great Britain, although considerable research work is carried on by certain industries—as, for example, the electrical and chemical trades—and tangible results have been obtained since the war from the work of the research associations, the staffs employed and the expenditure incurred are small compared with the United States and Germany, and if and when our industries become rationalised it is essential that all the large combines should augment their research departments, and attract the best brains from our universities with a view to the adoption of scientific methods of control over technical operations, and the more extensive application of science to industry.

Research work must follow on the survey of markets made by the sales organisation, which should forecast the probable lines of development required. In a commercial concern it is not the function of the research department to deal with matters of purely scientific interest, but to carry out such research work as will lead to the expansion of its trade and the extension of its activities, or, alternatively, to problems of production to reduce costs and to secure greater efficiency.

It is also necessary that the standardisation of products, to reduce manufacturing costs, shall be more widely adopted.

In addition to the expense of changes of machinery to produce different varieties of the same article and the cost of designs, there is the loss of interest on the capital locked up in the stocks of each type which have to be carried. Many of the variations are merely due to the particular whim of the customer or his consulting engineer, and do not effect any greater efficiency in the product itself.

The British Engineering Standards Association has been instrumental in accomplishing some reforms in this direction, but we are still far behind both American and German practice, and, whilst the demand for a needless variety in sizes, dimensions and specifications continues, our production costs must necessarily be higher than those of our competitors.

If our railways, our Government departments, our municipalities and our great trade associations would take up this question of standardisation wholeheartedly, with an earnest desire to investigate the possibilities of reductions in production costs by this means, if our professional bodies associated with the engineering and electrical trades would co-operate in such investigation and be willing to advise their members to work with this object in view, if the Press of the country would educate the public on the folly of the present methods and how standardisation would reduce selling prices, there is little doubt that, before long, very large savings would be achieved.

Finance.

One of the problems to be considered on the consolidation of several undertakings with a view to securing higher efficiency and reduced costs is that of finance.

Substantial economies can usually only be effected by the concentration of production and the installation of new and improved plant, but if, as frequently is the case, the fusion involves the acquisition of some relatively inefficient non-profit-earning concerns, and the motive power for the amalgamation is that of financial necessity, the hoped-for benefits cannot be realised without the introduction of fresh capital.

How then is such capital to be obtained? It may be assumed that, unless some of the partners in the new combine have large liquid reserves, the capital cannot be provided by the combine itself; financial aid from the Government will only be forthcoming in exceptional cases as it is not the function of a Government to subsidise any particular trade or section of that trade; the banks are possibly already heavily involved and have to make concessions regarding the security they hold to enable the scheme to be carried through; there remains therefore only the investing public to provide the funds required.

Such investors are, however, not inclined to take up securities subject to, or even *pari passu* with, existing stock, particularly if such stock gives a prior charge over the assets, and therefore for the good of industry generally, and taking the "long view" of their own interests, it is necessary under such conditions for existing shareholders and debenture stockholders to make some sacrifice as regards priority to enable the capital required to be obtained.

Actually such sacrifice is but small as regards each individual investor, for, according to certain statistics published in the *Economist* in December 1926, in eighteen well-known companies 85 per cent. of the holdings were £500 and under and the average holding of both preference and ordinary capital only £301.

As already mentioned rationalisation of industry means at first some hardship on a proportion of the workers until the benefits which will accrue can materialise and the unemployed be re-absorbed in the trade. Similarly, those whose capital is invested in the industry must forego some of their rights in the hope that they may reap an advantage in the future.

In some cases the capital can be raised by the issue of prior-lien reconstruction bonds, redeemable out of profits over a period of 10 to 20 years by a definite allocation of a certain percentage of the profits each year. If these bonds be issued at a substantial discount and be repayable at par by annual drawings, they prove an attractive investment to those who desire capital appreciation and can therefore be issued at a lower rate of interest, the investor taking the risk of sufficient profits being earned to enable early redemption to be made, and the premium on repayment obtained.

Possibly if this type of security became popular it would attract some of the trust companies, a result of two-fold advantage, as these trust companies would thus hold a watching brief over the undertakings in which their capital was invested.

The suggestion that debenture holders should surrender some of their rights is one which is only applicable where it is in their own interests to make concessions which may, ultimately, increase the value of their security.

Where the amalgamation of only part of several businesses is involved some difficult problems regarding debenture holders arise.

So long as the company is a self contained unit, the debentures usually give a fixed charge on the land, buildings and plant, and a floating charge on the remainder of the assets. When, however, part is transferred to a new company under a scheme for fusion of "like with like" the purchase price is generally satisfied by the issue of preference and ordinary shares and the debenture holders are asked to waive their charge over the assets transferred.

If the remaining assets in the transferor company are more than sufficient to cover any liability on the debentures they are not prejudiced, otherwise they are surrendering a prior charge in exchange for shares which are subject to the payment of creditors of the new company.

These schemes usually provide that the shares shall be registered in the names of the debenture trustees, who thus acquire the voting control, and they preclude the new company from mortgaging its assets or borrowing beyond certain limits prescribed by the Articles of Association.

These restrictions may, however, prove a serious handicap to the new company in the normal development of its business, particularly if it is desired to bring other concerns into the combine, and there is also the grave disadvantage that if it is desired to carry the principles of rationalisation further and amalgamate part only of the business of the combine with other concerns the restrictions on mortgaging and borrowing cannot be made cumulative to apply to participation in every subsidiary formed, and thus the spirit, if not the letter, of the undertaking given to the debenture holders is violated.

There is also the danger that if some of these fusions are unsuccessful, the debenture holders may find their interests have been prejudiced with the result that debenture securities will lose their popularity and industry be deprived of capital at cheap rates.

The problem is one of considerable practical difficulty as in some cases a fusion of interests may be impossible if the debenture holders of company A are not satisfied that their rights will be adequately safeguarded, and the shareholders in company B, on which there are no charges, are not prepared to give the debenture holders of company A any security on the assets of the amalgamated company.

One way out of the difficulty is to satisfy part of the purchase price in debentures allocated proportionately to the tangible assets transferred.

For example, supposing three companies agree to transfer part of their business to a combine and that their capitals, assets and the purchase price of the assets transferred were as follows:—

Co.	Capital		Assets (less liabilities)	Purchase price of assets (less liabilities) transferred	
	Shares	Debentures		Tangible Assets	Goodwill
	£		£	£	£
A.	2,000,000		2,000,000	2,000,000	200,000
B.	2,000,000	1,000,000	3,000,000	1,500,000	250,000
C.	2,000,000	500,000	2,500,000	1,000,000	50,000

The total capital of the combine would be £5,000,000, of which tangible assets would represent £4,500,000 and goodwill £500,000.

The parties agree that one quarter of the purchase price of the tangible assets, *i.e.*, £1,125,000, shall be satisfied in debentures, so the purchase price payable would be allocated as follows:—

Company	Shares	Debentures
	£	£
A.	1,500,000	500,000
B.	1,125,000	375,000
C.	750,500	250,000
	£3,375,000	£1,125,000

The objection to this method is that it restricts the power of the combine to borrow, owing to the existence of the debentures outstanding, but if sufficient working capital is available—and the result of the fusion should be to reduce the working capital required owing to less stocks being carried—and if the additional borrowing rights needed are for development expenditure, the debenture holders in the vendor companies would probably sanction the borrowing powers being increased to half the issued capital, thus enabling £562,500 additional debentures to be created.

In this direction appears to lie a solution of the difficulty and, although the circumstances and figures vary in each individual combine, this method frees the new company from restrictive covenants which may prove even more irksome than the existence of a debenture debt.

It is also necessary that those responsible for the administration of limited companies should adopt a different conception of their duties to the shareholders, and realise that the distribution of high dividends, which may not always be maintained, may force up the market price of the shares far beyond their intrinsic value, and prove unfair both to the shareholders who buy at inflated prices, to the company itself and to the industry.

In many individual businesses to-day, businesses established half a century ago and carried on successfully for many years, the plant-units are out of date, the lay-out bad, the buildings unsuitable for their purposes, and losses incurred instead of the profits earned by former proprietors.

In the past the owners have been living on their capital, they have taken profits out of the business which were not actually profits but repayments of capital, they have been misled by their annual accounts which falsely represented the profits earned, and why?

Land has been regarded as permanently worth its original cost without any thought of the day when its location, area, or accessibility for transport developments would make it an unprofitable site for the works; buildings which physically would stand the stress of storm and tempest for a hundred years have been depreciated on the assumption that they had a corresponding profit-earning life; plant has been written down on the mistaken idea that, once the very latest machines had been installed, the world would stand still.

How many of the businesses which have recently been reconstructed or liquidated, or are living from hand to mouth until the debenture holders decide to cut their loss, have in the past paid high dividends and watered their capital by share bonus distributions without any regard for the revolution in production methods which was taking place?

In a manufacturing concern the only sound policy is to amortise the whole of the capital outlay over a period of twelve to fifteen years and for the sums set aside to be invested outside the business so that funds are available when required for new capital schemes involving heavy expenditure. Indeed, it would be a useful provision if the Articles of Association precluded the distribution of any dividend exceeding say 7½ per cent. per annum, until the accumulated reserves created

out of profits amounted to half the value of the fixed assets shown in the balance-sheet.

Capital represents a fund for reproduction, and sufficient must be set aside out of the fruits of each industry to provide for the replacement of that capital when existing methods become obsolete.

The mechanisation of industries during the past century has yielded high profits on the capital employed, far greater than from the hand industries of former generations, but such profits have not actually been as large as imagined for sufficient provision has not been made for obsolescence.

A different financial policy must therefore be pursued in the future if industry in this country is to keep its place and take advantage of the discoveries of the laboratory and the results of scientific and engineering research.

INCOME TAX ALLOWANCES FOR CAPITAL EXPENDITURE IN LIEU OF PRESENT WEAR AND TEAR ALLOWANCE.

If, following the rationalisation of industry, manufacturing plants are to be brought up to date, some change is necessary in connection with the allowances made by the Inland Revenue.

The incidence of income tax assessment precludes any charge against profits liable for taxation for sums set aside for new plant and machinery, although such expenditure is to maintain or increase the profit-earning and tax-earning capacity of the business, and may be vital to enable the undertaking to survive against the competition of its foreign trade rivals.

The tendency therefore is for companies to distribute as dividend more profits than the future welfare of the concern justifies, with the result that improvements to maintain the profit-earning capacity are only effected by raising fresh capital which ultimately means the over-capitalisation of the undertaking. It is because neither the Revenue Authorities nor the investing public can realise that the capital value of a business depends solely on its earning capacity and not on the capital cost of its fixed assets that such an unsound financial policy is pursued.

One of the reasons why the American manufacturer is able to produce more economically than the British manufacturer is that he does not hesitate to scrap his plant when he finds that improved methods enable him to produce more economically and he sets aside a substantial portion of his profits for this purpose. In England the manufacturer is given an allowance by the Inland Revenue in fixing the income tax assessment for "wear and tear" but no concession is normally made for the more important loss he has to bear, viz, obsolescence. It is, of course, possible to claim, when worn out or obsolete plant is replaced, but not otherwise, for the written down cost of the original plant, less its scrap value, to be charged as an expense (Schedule D, Cases I and II, Rule 7), but the obsolescence allowance is limited to the cost of the new plant.

Further, it has been held that this allowance does not cover plant discarded merely because there has been a change in the character of the business and the plant has to be replaced as unsuitable. Thus, an electricity supply company, ceasing to generate and taking current in bulk, must treat the new plant as capital outlay and not as a replacement.

Further, this allowance does not provide for obsolescence in production methods involving putting down new plants to manufacture more economically.

The present parlous condition of many British industries can be attributed to the fact that sufficient reserves have not been made in the past to provide for obsolescence, and the attitude of the Inland Revenue in its taxation methods has encouraged such neglect. It is therefore suggested that in lieu of the present procedure manufacturers should have the right to elect whether they will claim:—

(1) The existing allowances for wear and tear (including the allowance under Schedule A); or

(2) Such sums as they consider necessary to set aside each year out of profits for the renewal, improvement and modernisation of their buildings, plant and machinery.

If method (2) is selected the amount should be limited to:—

(*a*) The actual expenditure during the year on additions renewals and improvement of buildings, plant and machinery; and

(*b*) Any amount set aside and invested outside the business to equalise the charge of one year with another.

The total amount set aside in any one year, whether expended or not, should be restricted to an amount equal to 15 per cent. on the original cost of the buildings and plant.

In the case of profits reserved and not actually expended in the year of reservation, the following conditions should apply:—

(1) The money representing the reserve made and not expended shall be separately invested in the name of trustees, who shall only release the same on a certificate that a corresponding expenditure has been made on new plant, &c.

(2) At the end of five years, and each year thereafter, any balance unexpended in excess of three times the annual average of the total amount unexpended during the preceding five years shall be liable for taxation.

(3) In the event of the sale of the plant or the liquidation of the company the Inland Revenue shall be entitled to claim either:—

(*a*) Tax on the actual sum charged against profits for plant, renewals, additions and improvements, during the three preceding years; or

(*b*) The amount standing to the credit of the uninvested reserve, whichever be the less.

(4) In the case of a new company it shall be entitled, during the first five years, to set aside a sum equal to one-half of the original cost of the plant, and (2) *supra*, shall not apply to any unexpended reserve created during this period.

EXAMPLES (1) AND (2).

A company has plant and machinery standing in its balance-sheet at £1,000,000.

The wear and tear allowance is, say, £65,000. In lieu thereof it sets aside out of profits for plant renewals and improvements £100,000 for five years, as follows:—

	Reserve.	Expended.	Investment of Reserve.
1st year	£100,000	£50,000	£50,000
2nd ,, ...	100,000	70,000	30,000
3rd ,, ...	100,000	90,000	10,000
4th ,, ...	100,000	60,000	40,000
5th ,, ...	100,000	150,000	— 50,000
	£500,000	£420,000	£80,000

Thus, during the five years the company expends £420,000 on alterations, renewals and improvements of its plant, &c., and has at the expiration of the period £80,000 invested outside, representing the reserve unexpended.

The average amount unexpended is £16,000 per annum, or for the three years, £48,000, so that on the balance of £32,000 the company would be liable for tax.

EXAMPLE (3).

In the case of the illustration given above, at the end of the fifth year the company sells the whole of its plant to another company.

The amount set aside during the last three years was £300,000, tax on which, at 4s. in the £, is £60,000. The Inland Revenue would, therefore, be entitled to £60,000 out of the investment representing the unexpended reserve.

Example (4).

A new company expends £1,000,000 on new plant. It would be entitled to set aside £500,000 during the first five years, out of which it is assumed £150,000 was expended. The balance of the unexpended reserve would remain available for plant expenditure in subsequent years, the company having the right to add to the fund subject to the conditions set out in (1) and (2) above.

The effect would be that companies would create substantial reserves for the maintenance of the works and plant in an efficient condition, and although the temporary effect on the Revenue might be a reduction in taxation payable, the increased efficiency would mean increased profits upon which tax would become due, and the expenditure on new plant which would result would give a stimulus to trade and mean increased profits for the plant manufacturers—which profits would become taxable.

What the Revenue lost directly they would, therefore, gain indirectly.

The objects to be achieved in any such scheme are:—

(1) To permit a company to set aside out of profits such amounts as may be necessary for the maintenance of the business in an efficient profit earning condition.

(2) To enable the company to make provision for expenditure to be made in the immediate future although not necessarily incurred in the year the reserve is created.

(3) To ensure that profits so set aside are utilised for that purpose and not used as a means of avoiding taxation by distribution to the shareholders in some other form.

The desire of shareholders and the Revenue is identical, namely, to show the largest amount of profits available for dividend and taxation, but the policy pursued by many concerns during the last twenty years has been to destroy the profit earning machine by treating as distributable profits part of the earnings which should have been set aside for the replacement, improvement and modernisation of the works and plant.

The Relations between Capital and Labour.

Rationalisation will not fulfil its purpose unless it makes some contribution to the problem of adjusting the balance between capital and labour; indeed, its aim is not merely to increase the return on the capital employed in a business, but to develop the industry as a whole and benefit those who are associated with it.

The objects in view, and which it should not be beyond the wit of man eventually to realise, are:—

(a) Greater stability in industry.

(b) Increased standard of living with corresponding increase in demand.

(c) Security of tenure for employees.

(d) Financial independence of each industry.

(e) Freedom from political interference, whether of Parliament or of any political party.

(f) Elimination of waste which now falls on capitalist and worker alike.

(g) The managing director's salary in every wage-earner's "pay-tin."

Under the highly organised system of civilisation under which we live, the greater the marketable production of a nation, the higher the standard of living which each individual member enjoys, and therefore "rings" to keep up prices which reduce consumption, and limitation of output by the worker to keep up wages, are equally destructive from the national standpoint.

No industry can pay out more in wages to the worker or in dividends to the capitalist than the industry can earn; therefore, the greater the increase in production and the lower the production costs, the larger the amount available for distribution either as wages or dividend.

Capital may be regarded as one of the tools used by the worker to earn wages, the interest on such capital being the hire paid for its use.

Such interest is not, however, paid until the workers' prior charge for wages has been satisfied, and in some cases is not paid at all, and therefore the capitalist rightly claims to average his return both of one year with another and of one investment with another before the worker receives a higher wage for his services.

If, however, industry can be rationalised on a sound basis the following consequences will ensue:—

(a) Production costs will be lowered, output will be increased, and the surplus for distribution between capital and labour will be greater.

(b) Reduction in the selling price of the necessaries of life, representing an unseen increase in the exchangeable value of labour, will bring about a higher standard of living.

(c) As large industrial units can raise capital at lower interest rates than small concerns the total amount paid for the hire of the capital will be less, although the return to the ordinary shareholder who risks his capital may be greater.

(d) The greater financial security of the combine and its larger volume of trade will mean less risk of failure, or temporary closing down through lack of orders.

(e) The greater the number of workers employed in one undertaking the easier will be the settlement of minor labour disputes without outside interference.

(f) The financial resources available will enable more to be spent on research, and render possible greater expenditure on modern plant, the employment of better brains, and reduction in distribution costs, thus reducing waste of every kind.

(g) The larger the concern the better will be the opportunity for promotion to those with initiative and ambition.

The movement towards large amalgamations should also lead to an improvement in the economic position of the worker in each industry.

In the same way that it is necessary for a company to create reserve funds to meet a period of bad trade, and an amortisation fund to provide for the wastage of plant through wear and tear and obsolescence, so it should be the endeavour of each industry to set aside out of surplus profits an amount sufficient to insure the workers against unemployment and to provide pensions when they are past work.

Each industry (as distinct from the concerns engaged in it should aim to become self-supporting; to be in a position to enrol a certain percentage of its employees in that industry for a definite period of their working life; to create funds to give "deferred pay" in the shape of pensions to those who are physically past employment; and at the same time to give an adequate return to the shareholders who invest their savings in the companies engaged in such industry.

The precarious existence of the individual units under the control of the small capitalist makes the realisation of such aim appear fantastic under existing conditions, but if those industries can be organised on a sound basis, if the revolution in the conduct of industry alters the ideas not only of the management but also of the workers and their leaders, if the prejudice, jealousy and ignorance of the past can be replaced by a realisation of the community of interests of those associated with each industry whether as employees or shareholders, then may such objective be reached.

Conclusion.

Those who imagine that the Aladdin's lamp of rationalisation has only to be rubbed to produce a new era of wealth and prosperity for those engaged in industry are doomed to disappointment.

Rationalisation is a confession of failure—a recognition of the fact that the development of industry during the past thirty years has been conducted on wrong lines. The practice of bringing several trades under one management has not justified the hopes of those who introduced it. In this country, as in Germany, the multiple-trade business and the horizontal trust have both failed to accomplish their object.

Whether the concentration of the same type of product in larger manufacturing units, which is the motive of rationalisation, will prove successful depends solely on the ability of those responsible for the management to grapple with the problems—technical, commercial, and financial—with which they are faced.

Success will not be attained immediately. The reorganisation of the businesses which are amalgamated, the concentration of production in certain shops, the provision of new plant, the economies in administration, and the direction of the attack on foreign markets will all occupy considerable time, and two, three or four years must elapse before the full benefit of rationalisation can be appreciated or appraised.

It is a step backwards, a return to the practice of the crafts of the 17th and 18th centuries with the application of the developments and inventions of the intervening years.

We try and excuse our loss of trade by complaining of the heavy burden of taxation, of the war debts we have been called upon to shoulder, of the advantages gained by our competitors through depleted currencies. We hesitate to admit the truth that our production methods in many of our staple industries have failed to keep pace with the progress made in other countries.

Reduction in taxation is only possible by an increase in the volume of trade, by the absorption of the unemployed in industry, by the spreading of taxation over a larger turnover so that the cost per unit is lessened, and the most drastic "combing out" of Government departments would merely effect economies which are infinitesimal compared with the total national expenditure, the greater part of which is "fixed."

To put trade on a sound economic basis and to meet foreign competition it is essential that reorganisation takes place from within, as any palliative methods which merely have the effect of temporarily "bolstering up" the "inefficients" will prove in the end prejudicial to the general trade prosperity of the country.

We have to mobilise the brains, the energy, the capital of the nation to recapture our trade as we mobilised them in the war to protect our liberty.

We did not waste time in 1914, or up to November 1918, trying to fix the blame for the mistakes in policy which had caused the war—we went "all out" to win. It is equally useless to endeavour to censure the Government, the capitalist, or the labour leaders for the million willing workers who are unemployed to-day—our job is to discover the way to find them work.

Once again combined effort is needed. Shareholders must not expect to drain the last penny of profits out of companies in which they are interested; employees must not try and get increases in wages directly trade shows some improvement; politicians must not push forward their pet schemes of social betterment directly some per capita reduction in taxation appears possible; the nation as a whole must realise that rationalisation of industry is a national movement involving self-sacrifice on the part of many, temporary hardship to all classes, and that it aims at the ultimate re-establishment of Great Britain as the foremost manufacturing centre of the world.

We have taught the other nations how to produce the goods we formerly manufactured for them; we have led the way in scientific and technical development; we have opened up vast undeveloped territories the products from which have improved the standard of living of the whole world; and, although to-day the other nations can beat us on price, we still can hold our own for the quality of our productions.

Rationalisation of industry is the co-operative movement of those engaged in a particular industry to win back for that industry a paramount position in the world's trade, and by good will, good work and good brains success can be attained.

The time has arrived for us to burn the boats our forefathers constructed, and to launch on the seas of commerce new vessels of larger design, strengthened by the rivets of combination, yet manned by crews whose motto still is:—
"England expects every man to do his duty."

There were days when British workers got the other nations' trade,
When they filled our shops with orders and demanded "British made,"
When we built their docks and railroads, and they never spared the cost
For we found them all the money—and some of it we lost.
Nowadays these other nations have outstripped us in the race,
And they overrun our markets, and we cannot go their pace;
But we shall not win by whining—when we get upon the track
Of the reasons why they beat us, we shall get our business back.

DEPRECIATION RATES FOR INCOME TAX.

The following is supplementary to the Schedule published in our issue of October, 1927, and previous dates. The rates of depreciation given below have been agreed by the Board of Inland Revenue, subject to the concurrence of the Income Tax Commissioners:—

Manufacturers of Mantles and Ladies' Clothing.

As the result of representations which have been made to them on behalf of the Leeds Wholesale Clothing and Mantle Manufacturers' Association, the Board have agreed, subject to the approval of the Commissioners, to allowances being granted on the following basis in respect of wear and tear of plant and machinery employed in the manufacture of mantles and ladies' clothing:—

Engines, Boilers and Shafting	5 per cent.
Electric Motors	7½ "
General Machinery (process plant) ..	10 "

The arrangement is to have effect for the year 1928-29 and subsequent years, and is to apply to all members of the above-named Association.

Agency, with Special Reference to the Position of Directors.

A Lecture delivered before the Yorkshire District Society of Incorporated Accountants by

Mr. J. H. DODDS, B.A.,
Solicitor, Leeds.

Mr. Dodds said: I am going to ask you first of all to consider the question "What is an agent?" No doubt every one of you knows what an agent is, but I wonder whether each one of you could at a moment's notice put down on paper from the legal aspect of the position a good definition of what an agent is. During the past week I have asked various people "What is an agent?" They have said, "What kind of an agent do you mean?" When I said I wanted a general definition, one replied, "An agent is a man who takes bets on the telephone instead of in the street." Another, "An agent is a man who wants you to insure your life." Still another, "An agent is somebody who does something for somebody else."

I do not want to suggest there is anything wrong with any of those explanations, but at the same time I think you will agree that, like modern fashions, they do not cover the subject. I have searched for a good definition, which I will read to you. It is somewhat long, but I do not think you can cut anything out without sacrificing something important. Take this definition from Mr. Wood Renton:—

> "Where one person authorises another to represent him, or act on his behalf, and undertakes to be answerable for what that other does within the scope of his authority, and such other person undertakes to exercise the authority conferred upon him, and in the exercise thereof, to obey any lawful instructions which may be given to him by the first mentioned person, the first mentioned person is called a principal, and the other an agent, and the relation created between them a contract of agency. The difference between an agent and an independent contractor, is that an agent undertakes to act in the matter of the agency subject to the direction and control of his employer, whereas an independent contractor does not, but merely contracts to perform certain specified work or produce a certain specified result, the matter and means of performance or production being left to his discretion, except so far as they are specified by the contract."

I have given you that somewhat lengthy definition of an agency because we are going, in the latter part of this lecture, to consider how far the director of a public company is an agent within the legal definition of the term.

Classification of Agents.

There are many kinds of agents, classified in various ways. I will deal with such classification as will be of use to me and you for the purpose of commercial law, which, I think, is the reason for my being here this evening. There are three kinds of agents—universal, special and general. The universal agent is one whose powers are entirely unrestricted. This type is as rare as the extinct birds you find in cross word puzzles. They are possible, but not probable, like a bashful insurance broker. A special agent is one appointed for a special object, but I propose to deal with general agents. Every agent you will have to deal with really comes within the limits of the definition of a general agent.

Creation of Agency.

In considering agencies, we first have to take into account how an agency is created. It may be created in various ways, but for the purpose of what I am going to say to-night I will ask you to consider it under two heads: (1) Where an agency is created expressly, and (2) where an agency is implied—a more difficult matter. In the first case, the authority is given expressly, but there is no particular form in which it may be given. It may be done verbally or in writing. There is one point to remember. If you want to appoint an agent to execute a deed, his appointment must be by deed.

We come now to the far more difficult task—those agents whose authority is implied. In certain cases a servant may be the implied agent of his master, and the wife may be the implied agent of her husband for the purchase of necessaries for the household. There is another kind of implied agent, which is important for your consideration. That is, the man who is agent by estoppel. What exactly does that mean? It means that in certain cases a man may by his conduct imply that another man is his agent and authorised to pledge his credit. The former is in law estopped from denying such authority if later some dispute arises as to whether he is bound by the acts of the latter. For instance, when you get a case of a man sending goods to an auctioneer without any definite instructions (or a factor, or a broker) and the latter sells those goods. In law the person who sends them is estopped from denying the authority of the other who sold them. In the case of *Picking* v. *Buck* a man sent the goods to a warehouseman whose usual business was custody only, and he sold them. There was no definite authority, but the natural implication there was that he was the agent of the principal to keep the goods for safe custody but not to sell them. There, again, while on the subject of estoppel, the principal is estopped in law from pleading that any act fairly incidental to the business for which the agent was appointed was expressly forbidden to the agent, even though in fact it was so.

There was the case of *Edmunds* v. *Bushell*, in which it was the agent's business to draw and accept bills of exchange; that was incidental to his ordinary work. In that case he was expressly told not to accept a certain bill of exchange. He did accept it, and his principal was held liable, although the agent had been ordered specifically by his principal not to accept it. The accepting of a bill of exchange was incidental to his ordinary business, and the law would not allow the third party to be prejudiced merely by the fact that, unknown to the third party, instructions had been given to the agents not to accept that particular bill.

Another case of implied agency is where you have agents of necessity. What exactly is an agent of necessity? He is a person who by force of circumstances is impelled to pledge the credit of the principal in that principal's interest. You get the *Great Northern Railway Company* v. *Swaffield*, in which a carrier was obliged to pledge the owner's credit in order to ensure the safety of the owner's goods. Another case was where the master of a ship pledged the owner's credit in order to get necessary repairs executed. Similarly, where a wife is wrongfully deserted by her husband, she is entitled to pledge his credit to obtain necessaries for herself and their children.

Ratification.

The next subject to consider in this question of agency is the matter of ratification. An important thing to remember is that it dates back to the agent's act. In the case of *Bolton* v. *Lambert* X offered to sell to M, who was A's agent, but without authority to buy in that particular case. M accepted the goods on A's behalf. X found out that, as a matter of fact, M had not the authority to buy the goods, and X then tried to withdraw. Subsequently A, the principal, ratified the acceptance.

It was held that X's withdrawal was not operative because, though the ratification was made after the withdrawal, it dated back to the time of M's acceptance.

There are certain conditions necessary to make ratification effective. In the first place, the agent must contract specifically as agent. He must act for a principal in contemplation at the time. That principal need not be named, but he must be sufficiently described for purpose of identification. Even if he is not ascertained at the time, if when ascertained he can be identified, that can still be sufficient to make the contract good as against the principal. You must remember that the principal must be in existence, whether he is ascertained or not. This must be particularly remembered when you are floating a company.

In the case of *Kilner* v. *Baxter* (1867), X promoted a company, and contracted on its behalf with A. The company was formed, and ratified the contract. The company became bankrupt very early in its life, and A sued X. X said: "No, I am merely agent of the company, and whatever liabilities there are must be met by the company." The Court held that the company was not formed at the time of the contract, and that the liability was entirely that of X. It has always to be remembered that a contract entered into by the agent will not bind the principal unless the principal has himself a legal capacity to enter into such a contract, and the contract is in itself lawful. For instance, if a principal is an infant he cannot ratify a contract. A company cannot ratify a contract if it is outside the powers of that company, and any illegal act is entirely unratifiable. If an agent forges the signature of his principal, the latter cannot ratify the action.

At the time of the ratification, the act done by the agent must be one which the principal could do himself. For instance, a principal cannot ratify an insurance contract made by his agent after the principal knows that the event insured against has actually happened.

To enable a ratification to be fully binding, the principal must have full knowledge. There is a good case on that—*Marsh and Joseph*. One solicitor used the name of another to get certain funds paid out of Court. He told the other solicitor he had used his name in formal proceedings, but did not mention fraud or forgery, and paid him a certain sum as costs. It was held that the second solicitor was not liable for the fraud and forgery, but only for the amount received as costs, the receipt of which did not establish actual or constructive knowledge of the other facts.

DUTIES OF PRINCIPAL AND AGENT.

With regard to the relations between principal and agent, both have their very definite duties. The principal's duties can be put very briefly and definitely. They are to pay the agent the agreed commission and indemnify him for all lawful acts done by him. The agent's duties are:—

(1) To account for the principal's property which comes into his hands. Even a betting agent must account for the money of his principal which comes into his hands.

(2) He must use all diligence he has, and if he holds himself out to have any special knowledge, he must employ it.

(3) He must not make any profit beyond his agreed commission. If he accepts any secret commission, he forfeits what is due from his principal. If he does receive secret commission, he must account for it to his principal. If any secret commission is obtained, the principal may rescind the contract with the third party. He must not be, so to speak, a principal as against his own principal. A commission agent cannot himself supply goods to his principal which he has been employed to buy on commission.

In the case of *Robinson* v. *Mollett*, A employed B, a broker in tallow trade, to buy tallow for him. According to custom, B appropriated to A tallow already bought from C without establishing privity of contract between C and A. It was held that A was not bound to accept the tallow, and as he did not know the local custom by which his agent acted he was not bound by it.

There is another rule about the duties of the agent, and that is he must not delegate his authority to somebody else. It is generally put in the text books "*delegatus non potest delegare*." I am reliably informed that this means what I have said before. But in certain cases authority to delegate may be implied from the conduct of the parties, the state of trade, the nature of the business, or from some unforeseen emergency.

When there is such an implied authority, what is the position of the principal and the person to whom the agent has delegated his authority? The position is that privity of contract arises between them so that the agent drops it, and the sub-agent comes into direct contractual connection with the principal.

In the *Busche and Alt* case A sent a ship to M in China, and told him to sell it for not less than 90,000 dollars. With A's knowledge and permission M passed the ship on to X in Japan, and told him to sell it on similar terms. X took the ship, bought it himself, and sent to A 90,000 dollars. He then sold it at once for 160,000 dollars. A then sued X for the difference in price, and was held in the Courts entitled to recover it.

You know the better known types of agents—broker, commission agents, and other equally curious agents, a *del credere* agent. I have never seen one in the flesh, but according to the text books they appear to exist.

There is a difference in the position when an agent acts for a named principal and when he acts for an undisclosed principal, because his liabilities in each case are somewhat different. When an agent is acting for a definitely named principal, if he contracts within the limits of his authority he himself drops out. He leaves the principal in direct communication with the third party, and the agent cannot sue or be sued on the contract made.

There is almost no rule in law without a long string of exceptions, and there are many exceptions to this general rule. One exception is where a seller gives *exclusive* credit to the agent. The latter is liable, whatever view his principal may take.

Secondly, where a contract is made by deed, any agent is bound by it if he is a party to it.

The third exception, and an important one, is that a principal who is foreign is presumed in law not to authorise any person to pledge his credit, and that stands good unless there is any evidence to the contrary. There is no such presumption where the principal is in the British Isles.

Fourthly, if an agent offers or accepts a bill of exchange in his own name, he is liable unless he expressly shows on the document itself that he accepts no personal liability. Merely signing himself "broker" or "agent" will not save him from personal liability. He must make his position more clear than that.

That is part of the position where the agent is contracting on behalf of a named principal within the limits of his authority.

Let us consider the case of an agent who is acting for a named principal and enters into a contract which is outside or for which he has no authority, or in regard to which he exceeds his authority. If the agent believes he has the necessary authority he can be sued, on an implied warrant of authority, because he impliedly promised the other part that he, the agent, would undertake that he was acting with the authority of a principal.

You now consider the many cases where the agent is acting for a principal who is not disclosed. If it is merely the name which is not disclosed, it is not of very great importance. The principal is still liable on the contract, and can enforce it. If the agent has contracted expressly as agent he will not be liable unless there is some trade usage to that effect, or unless he is acting for a foreign principal, or unless he repudiates the agency and adopts the character of principal. Where the agent does not contract expressly as agent, then he is liable, and the mere addition after his name of such words as "factor," "broker," or the like, will not save him.

Supposing the existence of the principal is not disclosed, the third party may elect which of the two he will sue. That alternative remedy does not last for ever. He must make an election and abide by it. If the agent unlawfully has expressly contracted as a principal, then the party who wishes to sue him will lose his remedy against the principal, and will have to sue the agent.

Again, if the third party, after discovering the existence of the principal, does any act which clearly shows which persons he intends to hold liable, he will lose his power of election. If he makes up his mind and sues one and gets judgment, and the defendant proves insolvent, he cannot then sue the other. He stands or falls by the judgment he has got.

Summing up this question of the liability as between principal and agent, I think the principle is that of the settling of accounts between the principal and the agent will not discharge the principal, where only his name and not his existence is undisclosed, unless by his conduct the third party has misled the principal into believing that he has already been paid by the agent, or that he gave exclusive credit to the agent.

Effect of Fraud on Contracts of Agency.

Another heading we may consider is the effect of fraud on agency contracts. You may have considerable fraud by an "agent," and it is a very necessary point of law to consider how far that fraud by the agent will bind the principal. You may lay it down as a general rule that when an agent persuades a third party to enter into a contract by fraud he will be liable to pay damages for deceit. That sounds very well, but you will find that agents who employ these tricks have not got anything with which to pay the damages, and it may mean that unless defrauded persons can throw the liability on to the principal they are not going to get anything at all.

Where the agent induces the third party to contract by fraud he is himself liable in tort. The principal is also liable if the agent acts within the scope of his actual or apparent employment. If he exceeds his authority, then he is not acting within the scope of his employment, and the principal is not liable.

Let us now consider the position when a misrepresentation is made by the agent whether fraudulent or otherwise. The position then is just the same as if the misrepresentation had been made by the principal himself. This applies just as much to a mis-statement as to a concealment of a material fact under contracts "*uberrimæ fidei*." In other words, the knowledge of the agent in law is held to be the knowledge of the principal. There is an interesting case on that—that of *Borden* v. *London Assurance Company*. In that case a one-eyed man insured himself against going blind. His policy was accepted (it was a fraud by the agent on the company). The agent knew the man had only one eye, but the company did not. The man went completely blind, and sued the company. The company were held liable to pay the amount for which the man had insured his sight. The point was that the knowledge of the agent was the knowledge of the principal. That does not mean the principal had not a right against the agent, but where you get fraudulent agents they are not generally men of large banking accounts, so that the remedy is not generally of much value.

Termination of Agency.

How eventually does an agent's authority terminate? The simplest way is by agreement.

It is more difficult where there is no time fixed. In such a case either party may give the other notice to terminate the agency, but the principal's right to terminate an agency has very definite limits. If he has allowed the agent to deal with third parties as his agent, and he proposes to cancel the agency, he must give them express notice. If he does not, he may be bound by any contracts the agent makes.

In certain cases the agency cannot be revoked at any time if the principal has expressly promised the agent he will not revoke it within a certain time.

A more important and interesting exception is that a principal cannot merely by giving notice revoke an agency when the agent, as well as having an agent's commission, has an actual interest in the business for which he was appointed.

In an old case—*Carmichael's* case—A was promoting a company to purchase a mine from himself. X authorises A to apply for shares for him. X then revoked the contract. It was held that the contract was irrevocable, as A had an "authority coupled with an interest."

The circumstances which illustrate where the rule will not apply are found in the case of *Smart* v. *Sanders*. A sent goods to a factor, X, to sell. Having got the goods, X then lent A money. A then revoked his authority, but X, in spite of that, sold the goods. It was held in the Courts that X had committed conversion, that the revocation of the agreement was valid because at the time the authority was first given to sell the goods X had no interest in them. The point is that at the time when the authority to sell the goods was given, the person who had them for sale had not anything in the nature of a charge on them, because his money had not been lent then. At that time it would have been ridiculous for A to refuse to have his power to sell revoked, and it was held that subsequent results could not alter that.

With regard to this revocation of agency by notice, the principal must indemnify his agent against any liability already incurred.

The final remarks on the revocation of the agent's authority will deal with the automatic revocation, which is not made by lapse of the term of the agency, or by termination of the notice, but by operation of law. Any agency automatically by operation of law becomes inoperative by the death, bankruptcy, or insanity of the principal.

Directors of Public Companies.

Having given a brief and perhaps elementary exposition of the general law of agency to-day, I will consider how far directors of public companies are and are not agents within the legal meaning of that term. The position of directors is quite interesting, not only from the lawyer's point of view, but from the point of view of the business man or of any poor shareholder.

We ask ourselves, in the first place, what is an agent? I want you to consider the question "What is a director?" We must have some idea of what a director is if we are to consider if and how far he comes within the legal classification of an agent.

In the first place, the following is the definition of a director, from the Companies Acts:—

> For the purpose of the Acts the expression "director" includes "any person occupying the position of director

by whatever name called" (*e.g.*, a member of a committee of management), and for the purposes of making returns under sects. 26, 75 and 274 of the Principal Act also includes "any person in accordance with whose directions or instructions the directors of a company are accustomed to act." (Companies (Consolidation) Act, 1908, sect. 285; Companies (Particulars as to Directors) Act, 1917, sect. 3.)

That is all you can get from the Companies (Consolidation) Act and the Directors Act, 1917.

We ask ourselves how far directors of a company are agents of that company. It is a matter of opinion whether they are agents at all. I would like to give you some opinions of very learned Judges in the past, as to whether directors are agents or not. Lord Justice Cozens Hardy, in the case of the *Automatic Self-Cleansing Filter Company* v. *Cunningham* (2 Ch., 34), said:—

"It is a fallacy to say that the relation is that of simple principal and agent. The person who is managing is managing for himself as well as others. . . . I do not think it true to say that the directors are agents. I think it is more nearly true to say that they are in the position of managing partners, appointed to fill that post by a mutual arrangement between all the shareholders."

Mr. Justice Kay, in *Faure Electric Accumulator Company* (1889) (40 Ch.D.):—

"Perhaps the nearest analogy to their position would be that of the managing agent of a mercantile house to whom the control of its property and very large power for the management of its business are confided; but there is no analogy that is absolutely perfect. Their position is peculiar because of the very great extent of their powers and the absence of control."

Jessel (M.R.), *Forest of Dean Coal Mining Company* (10 Ch.D.):—

"It does not matter what you call them, so long as you understand what their true position is, which is that they are really commercial men, managing a trading concern for the benefit of themselves and all the other shareholders in it."

Sir Francis Gore Brown, in "Handbook on Formation, &c., of Joint Stock Companies, 1922":—

"Directors are agents of the company, and when they contract they do so on behalf of the company, without taking any liability upon themselves beyond what may result from their being shareholders, unless they act outside their powers. As in the case of agent, they have only power to act within the scope of their authority, which is prescribed by the Memorandum and Articles, and if they exceed their power, their principal (the company) can ratify their conduct to any extent within its own powers. But their powers are fuller than those usually accorded to agents, and, from the nature of the case, they are subject to but little control by their principal, for the shareholders have not much opportunity of knowing what the directors are doing, and any action they may wish to take must be slow and greatly encumbered by dealing with large numbers of persons."

I have tried to get some authority to sum up the result of all these dicta. One Judge says they are agents, and another says they are not. May I give one more quotation from the book last mentioned?

"In some sense they may be called managing partners or agents or trustees for the company, and yet they are not, in the full sense, any one of those three things."

I will ask you to believe that opinion. He says directors are agents of their companies. As a result of those varied and learned judicial opinions, you find that directors are and are not agents, they are and are not trustees, they are and also are not managing partners.

I think we may say in more ways than one that directors are definitely agents of their companies. The company is bound by any contract made by the directors if it is in the scope of their employment as directors, and if they do things outside their own powers but within the power of the company, the company may by ratification make those contracts good. Similarly, to the position of agent, a director must not make a secret profit, as illustrated in the case *Langland* v. *Miller, Langland & Co.* (1904), where a director promised a manager a bonus if the latter would give him a share of it. The contract between them was held unenforceable.

Those are the cases in which, in the ordinary definition of the word "agent," the directors are agents. In certain respects they are not agents. They are not agents in so far as a person dealing with them *bonâ fide* has not the same protection as a person similarly dealing with an agent. If a person has been held out by another as his agent, the latter can bind the former, even though the contract is one which he is definitely forbidden to negotiate. If a director enters into a contract outside the powers of the company, as defined in the Memorandum of Association, the aggrieved party has no remedy against the company, no matter what the director may have told him. He may bring an action against the director for breach of warranty of authority, but there, again, if the director is a man of straw that right of action may be entirely valueless. You know the old case of the *Ashbury Carriage Company* v. *Riche* (1875), in which a company, formed to manufacture railway carriages and wagons, made a contract to purchase a railway concession in Belgium. This was outside the powers of the company, as defined by the Memorandum of Association, and although a general meeting of shareholders unanimously ratified the contract it was held to be unenforceable. It must, however, be remembered that acts which are within the powers of the company but outside the powers of the directors can be ratified by the shareholders.

Why is there this difference between the position of directors and the position of agents, looking to the position of innocent third parties who enter into contracts with them? The reason, I think, is this: In the case of an agent a third party cannot be expected to know the private arrangements made between the agent and his principal, because these may not be, and often are not, even made in writing, but anyone dealing with a director of a company can know both his powers and the powers of his company by the Articles of Association and the Memorandum of Association, both of which may be inspected at Somerset House on payment, I believe, of a small fee.

If directors are not full agents, how far are we entitled to consider them as trustees? In the case of *Smith* v. *Anderson* (1880), Lord Justice James said:—

"To my mind the distinction between a director and a trustee is an essential distinction founded on the very nature of things. A trustee is a man who is the owner of the property and deals with it as a principal, as owner and as master, subject only to an equitable obligation to account to some person to whom he stands in the relation of trustee, and who are his *cestuis que trust* . . . . the office of director is that of a paid servant of the company. The director never enters into a contract for himself, but he enters into contracts for his principal, that is, for the company of whom he is a director and for whom he is

acting. He cannot sue on such contracts nor be sued on them, unless he exceeds his authority."

So much for the position of directors as agents. We have seen we cannot properly call them agents or fully call them trustees. Are they partners? You cannot really say they are partners, because they have not got that full personal liability to the extent that a full partner has—a full liability for the debts of his firm.

It is a maxim in law that you cannot have a bankrupt partnership and a solvent partner. On the other hand, you may have a company hopelessly in liquidation and an extremely solvent director. One may be the cause of the other, but such a position can exist. They are not, strictly speaking, agents or trustees or partners, although as a matter of fact they have something of the nature of each.

What, then, are we going to call directors? There was once a small boy who went to his father and said: "Father, do you know what they call bugs in America?" The father replied, "No"; so the boy said "Bugs," and bolted. And so we, if we cannot call them agents, trustees or partners, had better continue to call them simply "directors."

District Societies of Incorporated Accountants.

BRADFORD.

A lecture on "The Duties and Liabilities of Auditors" was delivered before the Bradford and District Incorporated Accountants on February 28th by Mr. Wilfred H. Grainger, F.S.A.A., London. Mr. T. Hudson, F.S.A.A., Bradford, presided. Mr. Grainger dealt in a comprehensive manner with difficult points, both legal and practical, which arise in a properly conducted audit, and gave many interesting examples. A discussion followed. The lecture was much appreciated.

LEICESTER.

On March 12th the first of a proposed series of luncheons was held at the Oriental Hall, Market Place, 30 members being present. An interesting and instructive address on "Town Planning" was given by Alderman H. W. Hallam, J.P., Chairman of the Housing and Town Planning Committee of the City Council. The success of the gathering augurs well for the future, and the Committee hope to make the luncheons a feature of the Society's work in the city. The Hon. Secretary will welcome suggestions on any matter concerning the arrangements or suitable subjects for discussion.

MANCHESTER.

ANNUAL MEETING.

The 43rd annual meeting was held in the Grand Hotel, Manchester, on March 12th. The report, of which a summary is set out below, was presented and adopted.

Mr. James A. Hulme was elected President, and a tribute was paid to his energy and enthusiasm, which have resulted in additional activities by the Society. Mr. Joseph Turner was elected Vice-President and Mr. William Nicklin Hon. Treasurer.

The new President offered to Mr. Frederic Walmsley the congratulations and good wishes of the members on the attainment of his 80th birthday a few months ago. He remarked that Mr. Walmsley was one of the founders of the Parent Society in London, and was a Past President. He was also one of the founders of the Manchester Society, of which he had been President for eight years. Mr. Walmsley, in his reply, appealed to the young members to take an active interest in the Society.

It had been intended to make a presentation to Mr. Fred A. Fitton in recognition of his services as chairman of the Committee for some 21 years, but, as he was unable to be present through illness, it was decided that the presentation should be made to him at his home next week by a small deputation from the Society.

Report.

The report now submitted covers the interim period (August 1st to December 1st, 1928), necessitated by the change of rules approved at the 42nd annual meeting held October 26th, 1928.

The Society was founded on Tuesday, January 26th, 1886, and held its inaugural meeting on Tuesday, March 2nd, 1886, so that, although during the period of the Society's existence the financial period has varied to suit the convenience of circumstances, it is correct to describe this as the 43rd annual report, and the meeting follows close on the completion of the Society's 43 years of useful service.

During the period covered by this report there have been several meetings of the Committee and Sub-Committees. The following are the retiring members:—Mr. William Eaves, Mr. Fred Hargreaves, Mr. Robert Heatley, Mr. T. W. Sowerbutts, Mr. Chas. E. Rogerson and Mr. Arthur E. Piggott. Nominations for the re-election of these gentlemen and for the election of Mr. Albert Chadwick upon his retirement from the Presidency have been duly made, and no further nominations having been received, these gentlemen are re-elected as members of the Committee for the ensuing term of office.

It is with sincere regret that we record the death of Mr. Nixon, which took place at St. Annes-on-Sea on October 27th, 1928. Mr. Nixon was 70 years of age.

Your Committee in passing a vote of sympathy with the relatives of the deceased directed "that a donation of £2 2s. to the Incorporated Accountants' Benevolent Fund be made 'in memoriam Alfred Nixon, F.S.A.A.'"

Mr. Fred A. Fitton.

It is to be regretted that the state of Mr. Fitton's health at present confines him to his house. At a meeting of the Committee held on January 29th it was resolved "That this Committee desire to place on record their appreciation of the services of Mr. Fred A. Fitton, as Chairman of the Committee during a period of some 21 years. They ask his acceptance of a set of three etchings, by Frank Greenwood, of the Incorporated Accountants' Hall, London."

Meetings of the Society.

Nine meetings for the session 1928-29 have been held.

The monthly luncheons, held each second Wednesday, have been addressed by the following gentlemen:—Mr. E. G. D. Living, on "Northern English Life and Affairs of To-day"; Mr. William Pickles, on "The Accountant and his Clerk"; Mr. John E. Bray, on "The Local Government Bill." (This was a Joint Luncheon with the Manchester and District Branch of the Chartered Institute of Secretaries.)

Annual Dinner.

The annual dinner of the Society was held at the Midland Hotel on Tuesday, November 20th, 1928. Mr. Albert Chadwick, F.S.A.A., presided, and amongst those present were the President of the Parent Society, Mr. Thomas Keens, F.S.A.A.; His Worship the Mayor of Salford, Councilor A. H. Collins, J.P.; Mr. W. E. Thompson, J.P., President of the Manchester Chamber of Commerce; Mr. N. J. Laski, Barrister; Mr. Harold Roberts, Registrar, Palatine Court. Other gentlemen representing banking and kindred Societies, and various representatives of the District Societies of Incorporated Accountants, were also present.

Membership.

The membership of the Society on December 31st, 1928, was:—

Practising members	117
Non-Practising members (Ordinary)	65
Student members	42
Total membership roll	224

The membership for the current year will be affected by the operation of the District Societies scheme. The total membership should be considerably affected by this arrangement.

Owing to the ssubcription paid by Manchester practising members being higher than any *per capita* allowance likely to be received under the new arrangements, it is not anticipated that the income of the Society will be materially different.

SOUTH WALES AND MONMOUTHSHIRE.

"The Landlord and Tenant Act, 1927," was the title of a lecture delivered by Mr. A. Arthur Warren, Barrister-at-Law, at Newport on March 13th. Mr. Ed. Mills, F.S.A.A., the President of the District Society, took the chair, and amongst those present were Mr. R. Wilson Bartlett, J.P., F.S.A.A., Mr. J. Pearson Griffiths, F.S.A.A., Mr. R. C. L. Thomas, F.S.A.A., Mr. C. T. Stephens, F.S.A.A., and Mr. T. N. T. David, F.S.A.A., the Hon. Secretary of the District Society.

The Lecturer traced the development of recent statutes in improving the position of the tenant and protecting him from the unreasonable demands of his landlord, but described the Act as making revolutionary changes. It gave a right to tenants of business and professional premises to claim compensation for improvements done or goodwill on yielding up their tenancy, but hedged the right with many restrictions. The basis of compensation was not the loss to the tenant, but the benefit to the landlord in the increased value of the property given up—a vastly different thing.

Mr. Warren dealt with exceptional circumstances under which a tenant might be entitled as of right to a new lease, and went on to give examples of substantial changes in the law, relating notably to lettings of business or professional premises, and also private dwelling houses.

The Act did make substantial changes in favour of the tenant, and all parties concerned in the making of an agreement for tenancy would be well advised to keep the provisions of the Act well in mind.

CARDIFF AND DISTRICT STUDENTS' SECTION.

A meeting was held on March 7th. The chair was occupied by Mr. W. I. Rodda, A.S.A.A., who was supported by other members and a large attendance of student members.

The Lecturer was Mr. A. E. Harrison (*South Wales Journal of Commerce* and an ex-President of the Cardiff Master Printers' Society), who dealt with the subject of "Costing," with particular reference to the costing system adopted for the printing trade.

Mr. Harrison explained in detail (with the use of excellent charts) the method of allocation of overhead expenses; the allocation of lighting was specially mentioned, particularly with regard to departments occupying rooms in dark positions.

In these cases it was suggested that instead of being charged up on actual consumption, the cost should be added to rent and the whole allocated on the basis of floor space. It was pointed out that it would be very unfair to charge actual consumption when some departments occupy much lighter rooms than others. Interest on capital invested, the hourly rate of production, &c., were other matters dealt with in detail. Mr. Harrison pointed out that the system of costing adopted by the printing trade, which had now been extended to many other businesses, was an ideal one if properly carried out. Even with such a system it was possible to obtain varying costs if the machinery and equipment was not of an efficient and up to date character. The Lecturer recommended that the reconciliation of the costing system with the financial records should generally be carried out quarterly, although in some cases it was actually done monthly.

Colliery accounts and costing in the motor trade were briefly dealt with. In the costing system of the motor industry the very smallest part of every car is departmentalised.

An interesting discussion took place at the close of the lecture. On the proposition of Mr. Ivor Davies, A.S.A.A., seconded by Mr. E. V. C. Nicholls, Mr. Harrison was accorded a hearty vote of thanks.

YORKSHIRE.

At the concluding meeting of the current session, held at Leeds on March 7th, Sir Mark Webster Jenkinson, K.B.E., delivered an interesting paper on "Some Aspects of Rationalisation." The meeting was a joint one, and was attended by members of the Chartered Institute of Secretaries (West Yorkshire Branch), the Yorkshire District Society of Incorporated Accountants, and the Leeds Centre of the Institute of Bankers, the chair being taken by Mr. T. F. Braime, the President of the Leeds Chamber of Commerce.

At the close of the paper and discussion, a hearty vote of thanks, proposed by Mr. Frank Harrison, F.S.A.A., and seconded by Mr. Brooke (of the Midland Bank), was accorded to Sir Mark Webster Jenkinson for his paper.

NATIONAL INSURANCE AUDIT DEPARTMENT.

Scheme of Audit.

The following is the scheme of audit set forth in the report on the work of the National Insurance Audit Department in respect of the year 1928:—

SCHEME OF AUDIT.

The scheme of audit which was first brought into operation in the audit of the accounts for the year 1921 was continued throughout the year under review. The following is a summary of the auditors' functions thereunder:—

(*a*) They carry the cash audit, so far as practicable, up to date, inquiring exhaustively into cases presenting features suggestive of fraud or loss of funds through ignorance or defective accounting, and they report in detail on all discovered cases of fraud.

(*b*) They examine the expenditure charged to administration account to see whether it is proper in character and amount and supported by adequate authority, and they report such charges as are improper.

(*c*) They make an adequate examination of the members' title to the benefits paid to them, and report the sums found to have been improperly paid; at subsequent audits they see that the sums so reported are dealt with in the manner prescribed by the regulations.

(*d*) They examine the entries in the memberships contribution, and benefits registers and other records with the relative supporting documents, and report on matters of substance which affect the correctness of the accounts or impair the efficiency of the audit.

(*e*) On behalf of the National Health Insurance Joint Committee, they examine, in respect of approved societies and branches, the notifications of entrie, into and exits from insurance and of changes in the status of members.

The audits are annual, but certain of the largest societies require a continuous or almost continuous audit.

The cash audit is kept as well up to date as the circumstances permit, and the other audit operations for the respective years of account are undertaken when the official form of account can be certified. In the year 1928 now under review, the accounts under certification were exclusively those for the official account years 1926 and 1927.

It has to be borne in mind that the volume of cash transactions coming under review is very large because of the relatively small sum involved in each benefit payment. Many societies and branches have not a high standard of efficiency in financial administration and accounting, and the audit burden is appreciably increased in consequence. The audit is definitely a corrective of faulty administration and appears also to have a pronounced deterrent effect as regards wilful irregularity.

The functions described at (*d*) and (*e*) include a large volume of work which is outside the scope of the duties normally

undertaken by an auditor, but is entailed by the financial structure of the National Health Insurance scheme. That scheme provides for benefits at flat basic rates for men and women respectively and contributions also at flat rates, regardless of age at entry into insurance. To enable societies and branches individually to provide these uniform benefits it is necessary that they be credited with "reserve values," which, in the words of sect. 66 of the National Health Insurance Act, 1924, are "the capital sums respectively required in respect of members entering into insurance at ages over 16 to meet the estimated loss, if any, arising through the acceptance by an approved society of those persons as members upon the terms and conditions as regards contributions and benefits prescribed by this Act." The credits for reserve values are based on societies' notifications to the central departments of the ages and other particulars of persons admitted to membership, and are subject to adjustment or cancellation in certain events which require to be similarly notified, *e.g.*, marriage or widowhood of woman member, or exit from membership on termination of insurance. The central departments (the Ministry of Health, the Department of Health for Scotland, &c.), which control and manage the National Health Insurance funds, are in effect the central bankers of the societies, and they give the aforesaid credits in their accounts with the societies calculated on these notifications after verification by the audit staff.

Society of Incorporated Accountants and Auditors.

(Scottish Branch.)

Annual Report.

The Council have pleasure in presenting the 49th annual report of the Scottish Institute of Accountants (the Scottish Branch of the Society).

The Council regret to have to record the deaths since last annual meeting of the following members:—Mr. James A. Ross, J.P. (Aberdeen), Mr. Lawrence Scobie (Glasgow), and Mr. James Roberts (Bervie). Both Mr. Ross and Mr. Roberts were members of the Scottish Institute and members of the Society since 1899.

There has again been an increase in the number of clerks articled to members of the Society, and the interest of city members is again invited to assist country apprentices who may wish to attend University and other professional classes. The Secretary will be glad to have information as to any vacancies in the offices of city members.

On March 9th, 1928, the Branch was favoured with a visit from Sir Josiah Stamp, G.B.E., one of the Examiners and an honorary member of the Society. The Council and members entertained him to luncheon, which was also attended by the Rt. Hon. The Lord Provost of Glasgow (Sir David Mason), and other guests, and at which Sir Josiah Stamp delivered an interesting address, appreciative of the work done by the Society.

The question of accommodation in London for the efficient administration of the expanding work of the Society occupied a considerable amount of attention of the London Council during the year, and ultimately the Council purchased Astor House, on the Victoria Embankment, London. This building is of unique architectural design, and will form a valuable centre of the Society's organisation. The formal opening took place on February 19th, by the Duke of York, and was a very interesting and successful function.

The scheme of re-organisation of Branch and District Societies was duly carried through by the London Council during the year and is in operation from January 1st, 1929. Part of the scheme of organisation has been, not only to bring all members of the Society within the scope of a Branch or District Society, but also to bring within the same influence all articled clerks or other examination candidates. In future, therefore, candidates before being admitted to the examinations must produce a certificate from the Secretary of the Branch or District Society, that they have been a member of a Students' Society, or of a Students' Section of a District Society, or have been exempted by the Examination and Membership Committee.

During the year the Glasgow Students' Society held a number of successful meetings. A Students' Society was also formed for the Edinburgh District in the course of the year.

The Society is represented on the membership of the Glasgow Chamber of Commerce by Mr. Robert T. Dunlop and Mr. John A. Gough (Glasgow).

The Council have pleasure in reporting that, on their recommendation, the Finance Committee of the Society made a donation to the Building Fund of the Glasgow and West of Scotland Commercial College.

The attention of members is called to the Benevolent Fund of the Society and to the *Incorporated Accountants' Journal*, the official organ of the Society, both of which are commended to the interest of the members of the Society in Scotland.

The members of Council who retire by rotation at this time are:—Mr. P. G. S. Ritchie, Mr. Wm. Houston and Mr. E. Hall Wight (Glasgow), and Mr. Archibald McIntyre, J.P. (Hamilton), all of whom are eligible for re-election.

The Honorary Auditors, Mr. D. M. A. Brunton and Mr. Robert Fraser, also retire. As Mr. Brunton has removed to the United States of America, the accounts have been audited by Mr. Robert Fraser and Mr. J. C. McMurray, Kilmarnock, who are eligible for re-election.

Scottish Notes.

(FROM OUR CORRESPONDENT.)

Meeting of Scottish Council.

A meeting of the Council of the Scottish Branch was held on 22nd ult. There were present: Mr. D. Hill Jack, J.P. (Chairman), Mr. J. T. Morrison (Coatbridge), Mr. J. Stewart Seggie, C.A. (Edinburgh), Mr. W. L. Pattullo (Dundee), Mr. D. M. Muir (Dunfermline), Dr. John Bell, Mr. W. Davidson Hall, Mr. J. Cradock Walker (Glasgow), and Mr. James Paterson (Secretary). Apologies for absence were intimated from Mr. J. A. Gough, Mr. R. T. Dunlop, Mr. P. G. S. Ritchie (Glasgow), Mr. W. J. Wood (Perth), Mr. A. Scott Finnie (Aberdeen), Mr. Walter MacGregor and Mr. D. R. Matheson, M.A., LL.B. (Edinburgh), and Mr. E. Mortimer Brodie (Port Glasgow). The Council had before them various matters connected with the Scottish Branch and of interest to Incorporated Accountants in Scotland, and appropriate action was taken thereanent. At the close of the annual meeting the Council again met and re-elected Mr. D. Hill Jack, J.P., President, and Dr. John Bell, Mr. R. T. Dunlop, and Mr. J. Stewart Seggie, Vice-Presidents of the Scottish Branch for the ensuing year.

Glasgow Students' Society.

On 8th ult., Mr. Alfred Palmer, Incorporated Accountant, delivered a lecture on "The Companies Act, 1928, and the Accountant" to the Glasgow Incorporated Accountants' Students' Society. Mr. James Paterson, F.S.A.A., Secretary of the Scottish Branch, occupied the chair, and was supported by Mr. W. Davidson Hall, F.S.A.A., and Mr. Robert Fraser, Hon. Secretary of the Students' Society. The lecturer explained that the operation of the Companies Act, 1928, had been deferred until a new Consolidation Act had been passed. This consolidation measure was at present before the Joint Committtee of Parliament on Consolidation Bills, and it had become doubtful if it would be finally passed by Parliament in the lifetime of the present Government. January 1st, 1930,

was the most probable date on which the new law would come into force. Mr. Palmer emphasised that the new provisions were intended to be not merely amendments to, but a complete reform of, company law. The accountant was intimately concerned with the impending changes in his capacity either as auditor or accountant to a company. The right to issue shares at a discount and redeemable preference shares were two of the most important innovations, both of which were intended to facilitate the further development of joint stock finance, whilst at the same time affording greater protection to the investor. The lecture was illustrated by some of the accounting problems which will arise when the new law comes into force.

The late Mr. W. C. MacBean, Peterhead.

We regret to have to record the death of Mr. William Cumine MacBean, F.S.A.A., Peterhead, which took place on February 21st. Mr. MacBean, who was in his seventy-ninth year, was an early member of the Scottish Institute of Accountants. He was elected a member of Council in 1902, and continued until about two years ago, when he resigned. He took a keen interest in the work of the Society, especially in the training of articled clerks under the Scottish Branch. Until the last few years Mr. MacBean made a point of regular attendance at the meetings of the Scottish Council in Glasgow and Edinburgh, and he was highly respected by all his colleagues. He held a number of appointments in the district, besides a large audit and accountancy practice. Mr. MacBean's wife predeceased him. Of his family one son was a Cambridge Wrangler, another holds an important medical appointment in Aberdeenshire, while a third was his partner.

Meeting of Scottish Branch.

The annual meeting of the Scottish Branch of the Society was held in Glasgow on 22nd ult. There were present: Mr. D. Hill Jack, J.P. (President of the Branch), Chairman, Mr. J. Stewart Seggie (Edinburgh), Mr. J. T. Morrison (Coatbridge), Mr. D. M. Muir (Dunfermline), Mr. W. L. Pattullo (Dundee), Dr. John Bell, Mr. J. Cradock Walker, Mr. W. Davidson Hall, Mr. James S. Fraser, Mr. A. B. Marshall, Mr. Alex. M. Shaw, Mr. W. Hill Jack (Glasgow), Mr. J. C. McMurray (Kilmarnock). Mr. James M. Roxburgh and Mr. J. Hawthorne Paterson (Greenock), and Mr. James Paterson (Secretary). A number of apologies for absence were intimated. In moving the adoption of the forty-ninth annual report and accounts, the Chairman referred briefly to the chief points therein. The adoption of the report was seconded by Dr. John Bell, and after discussion unanimously agreed to. The retiring members of the Council, Mr. P. G. S. Ritchie, Mr. Wm. Houston and Mr. E. Hall Wight (Glasgow), and Mr. Archibald Macintyre, J.P. (Hamilton), were unanimously re-elected. The Hon. Auditors, Mr. Robert Fraser, F.S.A.A. (Glasgow), and Mr. J. C. McMurray, F.S.A.A. (Kilmarnock), were re-elected.

Notes on Legal Cases.

[The abbreviations at the end of each of the cases refer to the following law reports, where full reports of the case may be found. The Law Reports and other reports are cited with the year and the Division, *e.g.* (1925) 2 K.B.:—

T.L.R., *Times Law Reports*; *The Times*, *The Times* Newspaper; L.J., *Law Journal*; L.J.N., *Law Journal* Newspaper; L.T., *Law Times*; L.T.N., *Law Times* Newspaper; S.J., *Solicitors' Journal*; W.N., *Weekly Notes*; S.C., *Sessions Cases* (*Scotland*); S.L.T., *Scottish Law Times*; I.L.T., *Irish Law Times*; J.P., *Justice of the Peace* (*England*); L.G.R., *Knight's Local Government Reports*; B.& C.R., *Bankruptcy and Company Cases*.]

REVENUE.

Bourne & Hollingsworth, Limited, v. Ogden.

Money Laid Out for Purposes of Trade.

The appellants, who gave considerable subscriptions to a hospital at which their employees were frequently treated, claimed to deduct the amount of the subscriptions as a trade expense under Rule 3 (*a*) of the rules applicable to Cases I and II of Schedule D of the Income Tax Act, 1918. The Special Commissioners disallowed the deduction.

Rowlatt (J.) held that the question whether the subscriptions were given with the view of obtaining a staff that would earn profits, or whether they were given merely because the staff had in fact been treated at the hospital, was a question of fact for the Special Commissioners, and their decision must be affirmed.

(K.B.; (1929) 45 T.L.R., 222.)

Inland Revenue Commissioners v. Dalgety & Co., Limited.

Income Subject to Dominion Income Tax.

A company controlled from the United Kingdom earned the greater part of its income in overseas Dominions where it was subject to Dominion income tax. On transmission to the United Kingdom part of the income was applied in paying interest on debentures, from which United Kingdom income tax was deducted by the company before payment. The company claimed to be entitled to the relief provided against double taxation by sect. 43 of the Finance Act, 1916, and later by sect. 55 of the Income Tax Act, 1918, and sect. 27 of the Finance Act, 1920, in respect of the whole income received in the United Kingdom after payment of Dominion income tax.

Rowlatt (J.) held that "income" for the purposes of this relief must be construed as "income less charges" and that the company was not entitled to relief in respect of that part of the income which was used for the payment of debenture interest subject to deduction of United Kingdom income tax.

(K.B.; (1929) 45 T.L.R., 244.)

Tilling-Stevens Motors, Limited, v. Kent County Council.

Duty on Mechanically Propelled Vehicles.

The House of Lords reversed the decision of the Court of Appeal (see *Incorporated Accountants' Journal*, September, 1928, page 452) and held that a vehicle propelled by electricity generated by an internal combustion engine on the vehicle is an electrically propelled vehicle within Clause 5 of the First Schedule to the Finance Act, 1926, and is therefore not subject to the higher duty imposed upon a vehicle mechanically propelled otherwise than by electricity.

(H.L.; (1929) 45 T.L.R., 249.)

Gliksten & Son v. Green.

Insurance Money as Trading Receipt.

The House of Lords affirmed the decision of the Court of Appeal (see *Incorporated Accountants' Journal*, June, 1928, page 340) and held that where a timber merchant insures his timber against fire and the timber is destroyed by fire, the amount received by him from the insurance company, in respect of the timber so destroyed, is to be taken, for the purpose of income tax, as an ordinary trading receipt, and it is not sufficient, for that purpose, to value the timber destroyed at cost or market value, whichever may be the lower, and to enter that amount in the profit and loss account and to put to reserve the balance of the money received from the insurance company.

(H.L.; (1929) 45 T.L.R., 274.)

Attorney-General v. Luncheon and Sports Club.

Betting Duty.

The defendant company owned a club and managed on the premises a totalisator by means of which members could back horses running in races. The amount staked by backers of losers formed the fund for paying the backers of winners, the defendant company deducting 10 per cent. for expenses.

The House of Lords affirmed the decision of the Court of Appeal (see *Incorporated Accountants' Journal*, January, page 132) and held that the defendant company were not liable to pay betting duty, as no bets were made with them and they merely received money for the purpose of distributing it.

(H.L.; (1929) 45 T.L.R., 294.)